

1 FEDERAL SUBSISTENCE BOARD
2
3 PUBLIC REGULATORY MEETING
4
5 VOLUME II
6
7 SHERATON HOTEL
8 HOWARD ROCK BALLROOM
9 ANCHORAGE, ALASKA
10
11 JANUARY 11, 2006
12 8:00 o'clock a.m.
13
14 MEMBERS PRESENT:
15
16 MITCH DEMIENTIEFF, CHAIR
17 JUDY GOTTLIEB, Acting Chair, National Park Service
18 CHARLIE BUNCH, Bureau of Indian Affairs
19 GEORGE OVIATT, Bureau of Land Management
20 DENNY BSCHOR, U.S. Forest Service
21 GARY EDWARDS, U.S. Fish and Wildlife Service
22
23 KELLY HEPLER, State of Alaska Representative
24
25 KEITH GOLTZ, Solicitor's Office
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P R O C E E D I N G S

(Anchorage, Alaska - 1/11/2006)

(On record)

CHAIRMAN DEMIENTIEFF: Okay. We'll go ahead and call the meeting back to order. I just -- I want to remind people that I'll be leaving for a medical appointment this morning, so probably around 10 or so, probably at the morning break, and Judy's going to be chairing the rest of the meeting this morning while I'm attending to my business, and then -- so I just wanted to remind people of that, and then, of course, I'll come right back as soon as the appointment is over, whenever it's over. So just so -- I just wanted to remind people.

We're on Proposal No. 4. We advanced it through public testimony, and we're ready for the Regional Council recommendation at this time. Go ahead.

MR. BASSICH: Thank you, Mr. Chairman. I'd like to read what our Council had, and then if it please the Chair, I'd like to make a few comments afterwards.

Eastern Interior Regional Advisory Council is in support of this proposal. We listened to reports by Rod Campbell and the ADF&G and TCC. And the larger chinook salmon are being targeted in the Yukon River gillnet fisheries. There are fewer larger fish in the Yukon River chinook salmon run than there were in the past. And this is a big concern to us.

There is continuing long-term detrimental genetic impacts on the Yukon River chinook salmon stocks as a result of size selectivity, large mesh gillnet fishing practices. A number of research studies have documented that size selectivity fishing is detrimental to fish populations, and may impact the genetic viability of these fish stocks.

Shallower nets would allow more large chinook to make it upstream to spawning grounds. Gillnets are the most effective chinook salmon fishing method used in the Yukon River. This Council believes that a restriction in depth of gillnets is the first step in the conservation of large Yukon River Chinook salmon for present and future generations of Alaskans.

1 Traditional ecological knowledge
2 interviews of the upper river fishers has consistently
3 reported a definite decline in the size of chinook
4 salmon.
5

6 Mr. Chairman and members of the Board, I
7 think a big reason why this proposal came before you is
8 because of the level of frustration from upriver
9 fishermen. Probably for the last five to six years we've
10 been bringing this issue before both State and Federal
11 agencies, and we've had very little action taken on this.
12 And this has led us to feel that we have to kind of force
13 the issue on this and get people talking about this
14 issue, and begin to address this issue.
15

16 It's very logical that the people in the
17 upper river would be the first to see any kind of changes
18 in the chinook salmon or the chum salmon fisheries. And
19 we've been getting reports from people up in Canada and
20 also in Alaska in the upper river fisheries that there
21 has been a change in both the size of chinook salmon and
22 the volume of large fish. And this has been very
23 disconcerting to us, because we feel that the large fish
24 are very critical to the quality of escapement into the
25 spawning grounds.
26

27 And we feel that one of the big issues
28 that's being missed here is that we're not as concerned
29 about the length of fish. What we're concerned about is
30 the girth, or the mass of the fish. And what we're
31 seeing is that the fish are getting skinnier. They're
32 longer -- or they're not necessarily longer, but they're
33 thinner than they used to be. And when you have fish
34 that are smaller like this, they don't carry -- they
35 don't have the egg-carrying capacity, and it's been well
36 documented that the larger fish produce larger fish, and
37 that larger fish have a greater ability to produce
38 stronger offspring. They grow quicker, they have a
39 greater survivability in both ocean and in their transit
40 to the ocean, and so we feel that this is a very critical
41 portion of the escapement, and it needs to be protected
42 for the future of these salmon.
43

44 We're also noticing that -- and this can
45 be interpreted both ways, but we're seeing a lot of jack
46 salmon. Now, we realize this is a good sign in many
47 respects, because more salmon in the river means that
48 future generations are coming back, but what really
49 concerns us is that it makes up a very large percentage
50 comparatively to what the larger fish are. And if the

1 smaller salmon are making it up to the spawning ground,
2 they're going to have greater success in spawning and
3 that's going to change the genetic makeup of the salmon
4 over a period of time. This concerns us very much.

5
6 One of the things I'd like to applaud the
7 Board is I think the ASL study that was done was a very
8 good first step in beginning to look at this issue. They
9 came up with some good data. I think it can be
10 interpreted many ways, and looking over that data, I
11 personally feel that they've kind of missed the point
12 here in a few areas.

13
14 Number 1, the data shown on the Big
15 Salmon River, which is the farthest point up the Yukon
16 River that was collected and analyzed, shows a six
17 percent decrease in the size of fish. And this data was
18 collected -- it's one of the older data sets, which means
19 that it's not real recent data. So this means that the
20 fish that they're looking at have made this change, and
21 it has been changing very strongly in the past. It's not
22 real recent. This is something that points out to me
23 that this is a long-term trend that's happening. And I
24 think if they could get data -- my speculation would be
25 if they could get data that would be recent, it would
26 show this trend is continuing. This is what the
27 fishermen are seeing in the upper river.

28
29 So two points that need to be made about
30 that study: (1) that the escapement areas that they
31 looked at, the farther up the river they were, the
32 greater the change was. And that's a very important
33 thing. I'd really like to stress that to the Board,
34 because this is where we're going to see it first. These
35 are the warning signs, and we feel this is kind of the
36 canary in the coal mine. This is what's telling us we
37 have a problem that we may need to address.

38
39 The other thing that's very important
40 about that big salmon data point is that those are all
41 Canadian-bound fish. Forty-seven to 50 percent of the
42 harvest in the Yukon River is Canadian-bound or main stem
43 salmon. So we're saying in this report, the way I
44 interpret that, is that six percent decline in size of
45 fish is happening to close to 50 percent of the salmon
46 runs. That's a big factor. A huge factor. And it has a
47 very strong potential for changing the genetics of the
48 Yukon River salmon stocks. So we can't ignore that. I
49 think that's something that we have to really pay
50 attention to.

1 One of the things I'd like to make as a
2 recommendation to the Board is that they get together
3 with the Alaska Department of Fish and Game and that any
4 time ASL studies or data is being collected, that they
5 begin to collect a girth measurement. They need to come
6 up with a sample or a standardized girth measurement on
7 fish, because not only are fish getting a little smaller
8 in length, more importantly they're getting smaller in
9 mass and volume, and we have no data points at this time
10 to look at that. Had we had the foresight in the past to
11 have been collecting that data, I feel quite confident
12 that that data would have substantiated what I'm telling
13 you right now. So I think it's very, very critical at
14 this point and for the future that we begin to collect
15 girth and mass data points, and set up a data base that
16 we can track this.

17
18 And, finally, I think that this is an
19 issue that needs to be solved primarily by the local
20 fishermen on the Yukon River. I think this is an issue
21 that -- it's a very sensitive issue. It impacts a lot of
22 people's lives up and down the river. And I think the
23 fishermen have demonstrated that they have a strong
24 concern of the stocks, and that they can work together to
25 come up with long-term solutions to these problems. But
26 I do want to stress that I don't think that we can afford
27 to take 10 years to do this, or even five years to do
28 this. We need to begin to react to this. We need to
29 begin to react to this. We need to start working very
30 hard, both the fishermen and the agencies, and we need to
31 make sure that we understand that we have the warning
32 signs. We can do studies for the next five years, but is
33 that going to be too late to change? We've already lost
34 eight-year-old fish in the river. In five years are we
35 going to lose seven-year-old fish? I don't think anybody
36 can say for sure, but there is that potential, and so I
37 think it's very important that action be taken, that we
38 continue to not only monitor this, but we need to put our
39 heads together both as agencies and fishermen along the
40 river to address this issue.

41
42 That's it for now, Mr. Chairman, thank
43 you very much.

44
45 CHAIRMAN DEMIENTIEFF: Thank you very
46 much. I have a request from long-time RAC member Craig
47 Fleener for public testimony, even though public
48 testimony is over. I'm going to allow him also to
49 represent the RAC's point of view, so he's going to --
50 I'm going to allow him to do that right now. Craig.

1 MR. FLEENER: Thank you very much, Mr.
2 Chair. Federal Subsistence Board members. Regional
3 Advisory Committee members. I first of all want to wish
4 you merry Christmas and happy New Year. It's nice to see
5 you all again.

6
7 And once again we bring back an issue
8 that's vitally important to all of us. It's really
9 important, the conservation of salmon, the idea of
10 protecting, preserving, conserving something for -- not
11 only for ourselves as we grow older, but for our future
12 generations. And the older I get, the more and more
13 important this issue is becoming. I have four children,
14 one of them's not far from graduating high school.

15
16 And so, you know, I've been talking about
17 this issue -- I don't even know how long I've been on the
18 Regional Advisory Committee, but it's been quite a while
19 now, maybe -- I don't even want to speculated. It's been
20 a quite a few years. And, you know, every single year we
21 talk about this same problem.

22
23 Andy brings up a very good point. We
24 can't wait 10 years, we can't wait five years to try to
25 do something, to do the best we can to resolve this
26 issue. But we have waited that long. We continue to
27 wait that long. You know, I've been to meetings around
28 the state. I've been to Fairbanks and Anchorage, a lot
29 of small communities. I've even been to Emmonak and
30 Kotlik to try to work with people on resolving the
31 problems of not enough salmon getting into the upper
32 river. And the problem continues to grow.

33
34 When I first joined the Council, I wasn't
35 really a big salmon fisherman, but actually over the last
36 four years I started fishing more and more. And one of
37 the reasons it's become more important for me to start
38 fishing is, of course, my family's growing. I have to
39 provide more food, but as you know, as I've complained
40 time and time in the past, the Yukon Flats has just about
41 the lowest moose population in the state. We don't get
42 caribou. We don't have sheep. We don't have marine
43 mammals. We do have an awful lot of waterfowl, but we
44 only hunt them for a very short period of time. So
45 really the -- our access to food resources is extremely
46 limited, and if we can't get the food that we need from
47 moose and from salmon, then we eat an awful lot of
48 bunnies and squirrels. And we would much rather --
49 bunnies and squirrels are fine, don't get me wrong, but
50 it -- they're not that easy to catch when the -- when

1 their numbers are down as well. And fortunately our
2 bunny population is extremely high right now, so there's
3 an awful lot of people eating an awful lot of rabbits or
4 snowshoe hare if you want me to be more official.

5
6 But, you know, we have some serious
7 problems in the Yukon Flats just trying to meet our basic
8 needs, and we have extremely limited resources, and we
9 keep fighting and we keep arguing, and we keep talking
10 about doing something.

11
12 You know, one of the things that we
13 thought would be really successful in trying to get the
14 -- trying to build the salmon population in the Yukon
15 River back up was to have tri-Council meetings, Regional
16 Advisory Committee meetings where the upriver, and the
17 middle river and the downriver folks would get together
18 and say, let's come to some solution so we can solve this
19 problem together, because we didn't see anybody else
20 trying to solve the problem. And things were okay except
21 that the folks in the Y-K Delta were I think, in my
22 opinion, were so concerned about continuing their access
23 for commercial fishing, that it over -- that started to
24 overshadow the meetings that we had held and the
25 discussions that we had had. And, of course, it is a lot
26 harder to see the problems when you're at the mouth of
27 the river. Every single fish that comes into the Yukon
28 River is swimming by Emmonak or Kotlik, so the problem is
29 more difficult to see. But by the time you get to Fort
30 Yukon, there aren't that many fish swimming by.

31
32 And, you know, I'm just about the last
33 guy on the river. There's one guy that lives further up
34 than me sitting at the table here, and I don't -- there
35 might be somebody else back there, but, you know, I'm
36 just about the last guy on the river in the room here, so
37 we see the problem the worst.

38
39 And you know, the people in Yukon Flats
40 have an awful lot of relatives on the Yukon and Northwest
41 Territories side in Old Crow and a number of other
42 communities up there. And so we do a lot of talking with
43 them. And we actually in the organization I work for,
44 the Council of Athabaskan Tribal Governments, which is a
45 consortium of the 10 tribes in the Yukon Flats, we
46 actually sponsored a meeting with the tribes in the Yukon
47 to try to work through some of these problems, and they
48 actually were under the impression that the reason the
49 salmon population was low is because the people in Fort
50 Yukon were catching all the fish at the mouth of the

1 Porcupine River. And so there was an awful lot of
2 misinformation going up. And we actually brought folks
3 down to show them we don't even have a net, not net one
4 set near the mouth of the Porcupine River, because we
5 know how important salmon is to those folks up there.

6
7 So salmon is a very important issue, of
8 course, or else we wouldn't be talking about it. It
9 continues to be a growing problem.

10
11 Andy did a tremendous job talking about
12 what needs to be done, the research that needs that needs
13 to be done, and the action that needs to be taken, so I'm
14 not even going to begin to discuss or go back into what
15 he already talked about. But I would recommend to the
16 Federal Subsistence Board that you authorize a tri-
17 Council meeting again. Let us get together and talk
18 about these problems and try to find some resolutions.
19 Let us work together again hopefully we can try to solve
20 the problems together.

21
22 I've supported salmon conservation my
23 entire time on the Regional Advisory Committee, even to
24 the point where I said let's restrict our own use so that
25 we can get more salmon to the spawning grounds. And I
26 don't think we're going a good enough job. First of all,
27 we need to make sure we have enough salmon getting to the
28 spawning grounds, or we're not going to be able to
29 provide for our future. Secondly, we need to make sure
30 our subsistence uses, our subsistence harvesters are
31 getting what they need. We're not doing that. Then we
32 need to be concerned about something later on like
33 commercial activities. And unfortunately we've -- it
34 seems we've done things in reverse.

35
36 As Andy said, we can't wait 5 or 10 more
37 years. I think we need to take action now. Please
38 support this proposal and take into serious consideration
39 the needs of salmon and providing salmon for future
40 generations. Thank you very much.

41
42 CHAIRMAN DEMIENTIEFF: Thank you, Craig.
43 I'm not being disrespectful. I was listening to every
44 word you said. It's just that, well, quite frankly I'm
45 in a lot of pain and I'm on my way to the doctor's this
46 morning, and I need to get going. I'm going to try to go
47 over there early so I can get myself attended to.

48
49 What we were talking about on the side
50 while you were talking is that basically we're coming to

1 find out that nobody can cast my vote for me. Judy can
2 guide the discussions, and which she will, and I'm going
3 to go and go to my appointment, and take care of the pain
4 that I have. And we will -- so, anyway, that's where
5 we're at.

6
7 So I just want to let everybody know that
8 Carl's going to lead for me now, and there will just be
9 the five votes that we'll have, because there's no way
10 that anybody can vote for me. But I will be back as soon
11 as I get down with the doctor's this morning. So,
12 anyway, I just want to let people know, I'm not
13 abandoning my duties, but sometimes we have other
14 obligations, and this is one of those times, so -- okay.
15 Thank you very much, Craig, for your comments.

16
17 ACTING CHAIR GOTTLIEB: Thanks everybody.
18 If you could give me one minute to relocate, then we'll
19 get underway.

20
21 (Pause)

22
23 ACTING CHAIR GOTTLIEB: Okay. Thank you.
24 And we hope that Mitch gets treated and will be in a
25 little less pain this afternoon at least from his foot.

26
27 I think we continue now with Western
28 Interior comments. Excuse me. Were there any questions
29 for Craig?

30
31 MR. EDWARDS: My questions were for Andy.

32
33 ACTING CHAIR GOTTLIEB: Andy from --
34 okay. Go ahead.

35
36 MR. EDWARDS: Right. Andy, in the
37 Council's deliberation and discussion as you put your
38 proposal together, did you give any consideration to mesh
39 size versus mesh depth?

40
41 MR. BASSICH: Madame Chair. Member
42 Edwards. Yes, we've had a lot of discussion about that,
43 and I think we led to -- it led to this proposal simply
44 because -- you heard a lot of testimony on the hardships
45 of regearing, the economics are down for a lot of people
46 in the lower river. We're very sensitive to the people
47 in the lower river. We're not trying to take fish away
48 from anybody, and we're not trying to create hardships
49 for anybody, but we are concerned about the stocks, and
50 it is -- we felt it would be less expensive and easier to

1 reduce the length of their depth of mesh than to regear
2 to a different mesh size.

3
4 I think it's -- there's a lot of
5 speculation out there that need to be cleared up having
6 to do with selectivity of different mesh sizes. I think
7 you would hear testimony that if we went to smaller mesh
8 that more fish would drop out, and potentially could lose
9 fish that are -- would be unharvestable because they
10 would fall out of the net prior to being harvested
11 successfully. I think this is one area that there needs
12 to be some study, some very good, hard science done on.
13 I think we need to really look at seven-inch mesh, six-
14 inch mesh and actually see what does it catch and do we
15 in fact have drop out. That's one area that I think
16 needs to be addressed as well.

17
18 So I think it had to do more with
19 economics for the lower people as far as trying to raise
20 the nets up rather than change a mesh size, because that
21 would force commercial and subsistence users to totally
22 regear, asking them to go to a different mesh size.

23
24 MR. EDWARDS: Yeah, as a follow up
25 question, but really can't a shorter net just be fished
26 deeper? I mean, does necessarily -- controlling the
27 depth of the net necessarily doesn't control how deep it
28 can be fished though, does it?

29
30 MR. BASSICH: A longer -- a larger mesh
31 net for the same number of meshes is going to fish
32 deeper. I'm not really sure what you're asking.

33
34 MR. EDWARDS: Well, my question is why
35 don't you just lower the net? You shorten the depth, but
36 you still fish it at a deeper depth. Isn't that
37 possible?

38
39 MR. BASSICH: The proposal is to actually
40 decrease the length -- or the depth of the mesh, so
41 that's in fact what we're trying to do.

42
43 MR. EDWARDS: Yeah, I understand that,
44 but that doesn't necessarily impact how deep the net can
45 be fished. You can sink your net and then just fish it
46 deeper, could you not, with a shorter net?

47
48 MR. BASSICH: I'm not a drift net
49 fisherman, so I don't know the different techniques of
50 fishing, whether you can sink a net to do that. Maybe

1 someone else could address that more effectively than me.
2 I don't drift net up in our region, it's not permitted,
3 so.....

4
5 ACTING CHAIR GOTTLIEB: Ron, it looks
6 like you've got a thought on that?

7
8 MR. SAM: Yes, maybe I could clarify this
9 concern. One of the reasons the Western Interior is
10 opposing this proposal is that we've known for a fact
11 that, to answer Mr. Edwards' question, is that the people
12 who want to go out and get that first run, they just put
13 anchors on their net and just drop them deeper. And
14 you're still legal with the same sized net. And again
15 this addresses the gillnets only. And while the bigger
16 gillnet sizes or meshes down on the lower Yukon will drop
17 the bigger fish, we get them all even with two and three-
18 inch nets because they're in the spawning mode up in our
19 area. They're all wrapped up in the teeth, but that --
20 we've heard stories, and we've heard people say that they
21 simply anchored nets down to the bottom to utilize that,
22 and it would still be legal. Thank you.

23
24 ACTING CHAIR GOTTLIEB: So you're saying
25 perhaps sometimes no matter what the rule is, people can
26 find a way to get around it if they want to, but think
27 the proposal was for the reasons stated, and there may be
28 other consequences if it were implemented.

29
30 Other questions for Eastern Interior?

31
32 (No comments)

33
34 ACTING CHAIR GOTTLIEB: Then I think
35 we'll go to Western Interior comments, please.

36
37 MR. SAM: Thank you, Mr. Chair. I would
38 like to follow Andy's lead and go ahead and read into the
39 record our written response, and then add on our Council
40 concerns and my personal concerns and observations.

41
42 We oppose the proposal. The Western
43 Interior Advisory Council is very concerned about the
44 decline in the size and age of the returning salmon.
45 Council members reported good returns of salmon this year
46 as far as number of fish, but are not seeing the large
47 fish in the quantities they did in the past. The Council
48 felt the decline of age and size of fish is due to the
49 commercial fishing, and if I remember right, we were
50 alluding to the high seas fisheries.

1 The Council directed a letter be sent to
2 the State and Federal agencies managing the fisheries
3 airing the Council's frustration with the lack of action
4 to resolve the decline in the age and size of returning
5 salmon that are important to the Yukon River subsistence
6 fisheries.

7
8 We are deeply concerned about this issue,
9 but then this is being studied throughout. I believe
10 that a summit in the Hudson Bay area, because of low
11 returns, that the -- both the commercial fisheries and
12 the scientists agreed that the decline in the size and
13 the age of the returning fish is due to overfishing.
14 They are finally reaching that conclusion. And we
15 believe that a good part of our problems on the Yukon
16 River is because of this problem, the overfishing in the
17 high seas.

18
19 And again we are so concerned about this
20 issue that we are addressing this issue in our annual
21 report with correspondence between all the parties
22 concerned.

23
24 The other tack is that we have -- we
25 recently were granted the right to drift -- to expand our
26 drift net fisheries, and we want to protect our harvest,
27 subsistence harvesters to the extent that if the 45 mesh
28 deep nets are already legal and in use in the lower
29 Yukon, we do not want any restrictions placed upon the
30 middle Yukon people. If -- that's one of our stands, is
31 if it's legal in one part of the river, we want it legal
32 throughout the river system, that we do not want any
33 restrictions placed on our subsistence harvesters along
34 the middle Yukon. Thank you.

35
36 ACTING CHAIR GOTTLIEB: Thank you. Any
37 questions or comments for Western Interior.

38
39 (No comments)

40
41 ACTING CHAIR GOTTLIEB: Thank you, Ron,
42 and now we have Y-K. Lester, please.

43
44 MR. WILDE: Thank you, Madame Chairman.
45 The Lower Yukon -- the Yukon-Kuskokwim Regional Advisory
46 Council opposes the proposal. The Yukon-Kuskokwim Delta
47 Regional Advisory Council felt that if this proposal is
48 adopted, it would further interfere with the subsistence
49 salmon fishing in the lower Yukon River, and it would
50 unnecessarily restrict lower Yukon River subsistence

1 users. It has not been proven that deeper nets catch a
2 significantly higher number of females than males, and
3 the subsistence commercial -- subsistence and commercial
4 fishers in the lower Yukon fish at their own fishing
5 areas that exceeds 60 to 70 feet in depth in parts of the
6 Yukon River. Current legal king gear type in the lower
7 Yukon River is 45 mesh deep, and in some areas in the
8 lower Yukon River a 45-mesh deep gear is too shallow to
9 harvest salmon. In the lower Yukon River, some of the
10 subsistence salmon fishers would have no choice but to
11 relocate to shallower areas if this proposal is adopted.

12
13 And I've been a tender operator for the
14 processors on the Yukon for a number of years, and I've
15 travelled up that -- up and down the Yukon River during
16 the commercial fishing, at the time of the commercial
17 fishing periods, and we've noticed that the bottom of the
18 Yukon like any other bottom of the river is -- has holes.
19 Wherever there's eddies, you'll find the deeper hole.
20 And, pardon me, because of the changing channels in the
21 river, we -- from the beginning of the season to the end
22 of the season, the channel could change significantly in
23 some parts of the lower Yukon.

24
25 And I've noticed that running up the
26 river with my fish -- with my depth finder, I've noticed
27 that all those fish, the larger fish, the big fish are
28 usually way down on the bottom during commercial fishing
29 season. All the engine noise, when the fish hear that
30 engine noise, they're not going to stay around underneath
31 that fish to be -- the fisher to be caught. They'll go
32 and try and escape to the deepest water. So even a 45-
33 mesh deep net won't be able to reach those fish that are
34 swimming way down on the bottom, and it's usually the
35 larger fish that go down there. The smaller fish are
36 usually -- are the ones that are being caught up on the
37 upper -- in the 45-mesh area.

38
39 And that -- I thought I'd put that out
40 just for your information, that the 45-mesh deep net on
41 the lower Yukon is okay. It's acceptable. But making it
42 any shallower would put a lot of hardship on the fishers
43 that are down there. And as you stated, unless somebody
44 -- or we can come up with a proven fact that 45-mesh deep
45 net are getting those larger fish, then at that time I'm
46 sure that we could come up with something that would help
47 to regenerate those larger fish in the eight-year period.

48
49 But as we all know, we've had -- not too
50 long ago we had a problem with our fishing in the areas,

1 because of the decline of the fish within -- coming into
2 the Yukon River. And there was a large number of fish
3 being caught out in the sea. And as we all know,
4 according to Andy, he stated that some of those fish --
5 the fish are getting leaner and longer, and I don't
6 believe that has anything to do with the 45-mesh deep.
7 It has something to do with the environment where they
8 feed. All of us people that are a little bit heavy
9 already know that in order for us to get to the size that
10 we are, we had to eat. And if we don't eat, we stay long
11 and slim like Andy is.

12 That's all I have. Thank you.

13

14 ACTING CHAIR GOTTLIEB: Thank you. Are
15 there questions or comments for Yukon-Kuskokwim. Gary.

16

17 MR. EDWARDS: What would be the Council's
18 views with regards to maybe going to smaller nets, mesh
19 size?

20

21 MR. WILDE: The small mesh size is --
22 we've always opposed that, because we felt, and we --
23 it's a known fact that smaller mesh size have a tendency
24 to drop off the larger fish. The fish get caught around
25 the gill, and once you get the gill of the fish cut or
26 touched, the fish will bleed to death, and when -- once
27 they drop off, then they're not bound up there, they're
28 bound to the grave.

29

30 MR. EDWARDS: So your view is that even
31 with the smaller mesh size, you're still going to -- it
32 ends up just with mortality on the larger fish as opposed
33 to allowing them to escape and move upriver?

34

35 MR. WILDE: Yeah, that's what we --
36 that's what I believe. Then again, that is not a proven
37 fact also, but from observation of our elders that have
38 been fishing that river for a number of years, some of
39 them all their lives, that's one thing that they've
40 caught -- that they've noticed is that the smaller mesh
41 size has a tendency to have a lot more drop off. You
42 could -- when you're pulling up the net, you could see
43 the king salmon sit there, laying in there just -- and
44 once you put -- once you pull the net out of the water,
45 they kick out, they kick themselves off the net and drop
46 off.

47

48 ACTING CHAIR GOTTLIEB: Lester, I was
49 going to ask, I hear certainly from Eastern Interior that
50 there's very much a need or willingness to talk

1 riverwide. Is that something you believe, you or the co-
2 chairs or the RAC would be interested in doing?

3

4 MR. WILDE: Yes, I think we would. I
5 think that -- this issue needs to be resolved, because
6 all of us on the river need that resource, and we should
7 work in a -- together to see if we can solve that
8 problem.

9

10 ACTING CHAIR GOTTLIEB: Thank you. I
11 appreciate that. Any other questions or comments.
12 Regional Advisory Council Chairs. Ralph.

13

14 MR. BUNCH: If I could.

15

16 ACTING CHAIR GOTTLIEB: I'm sorry.

17

18 MR. BUNCH: Mr. Wilde, what's the effect
19 of other species if you go to a smaller net? Does that
20 -- I mean, you get the summer chums running at the same
21 times as the king, is that going to interfere with other
22 species?

23

24 MR. WILDE: Yeah. Yes, it does. We --
25 at about that time of the year, we also have the
26 sheefish, we have pike fish, that are incidently caught.
27 White fish. And a lot of the other freshwater fish are
28 caught, but in our commercial area, they're not very --
29 so -- during commercial season, there's just no market
30 for them.

31

32 But I'm not just talking commercial, I'm
33 talking subsistence, because that's what we depend on.
34 And I think even if we didn't have the commercial portion
35 of the Yukon River down on the lower end, and we had to
36 depend on subsistence only, that 45-mesh deep net is
37 probably about the best net, or the most accepted net in
38 that area for the depth.

39

40 ACTING CHAIR GOTTLIEB: Ralph.

41

42 MR. LOHSE: Well, I'll stick my oar in
43 here. One of the reasons that we have Council members is
44 because we're supposed to draw from our background and
45 our knowledge. And I'm not taking sides, one side or the
46 other on this, but one thing I've noticed in all of this
47 discussion, nobody's talked about depth. We've talked
48 about mesh. And I'd just like to put some prospective on
49 things for the Board right there.

50

1 We've got eight and a half to nine-inch
2 mesh, and I don't know, maybe you go all the way up to
3 nine and a half or 10, but just using eight and a half to
4 nine-inch mesh for an average, a 45-mesh net reaches 21
5 to 22 feet down. A 35-mesh net reaches 17 to 18 feet
6 down. A 60-mesh net reaches 28 to 30 feet down. So
7 we're talking about going from 21 to 22 feet down to 17
8 to 18 feet.

9
10 But we heard before how innovative people
11 are, and I'm not even talking about being illegal. You
12 can take that 35-mesh and just by the way you hang it,
13 you can have that 35-mesh be 20 feet down.

14
15 So what you're discussing is the
16 difference theoretically of one or two feet of gillnet.
17 And I don't know how much impact one or two-foot of
18 gillnet has when you're fishing 40 to 60 feet of water.
19 And I won't make any distinctions on what I think about
20 how much impact it has. But you're not talking about a
21 very big reduction and very much gain.

22
23 Now I'll talk from a commercial
24 standpoint. If you want to get fish through, closures
25 are the way to get them through. You've gone to a window
26 fishery on the Yukon River. You haven't gone to a window
27 fishery for very long, but you've seen some results in
28 the last couple years. If you want fish to go through,
29 you close things. They go through. When you fish, you
30 fish. And people are going to fish as efficiently as
31 they can during the opener. And I think you're going to
32 see some results since you've gone to windows, and I
33 think you need to give it some time.

34
35 But if you're going to do with -- if
36 you're going to do anything with mesh size, put it in
37 perspective. See what you're actually accomplishing by
38 talking in distances that we can all understand. I mean,
39 we talk meshes, that really doesn't -- 45-mesh sounds
40 real deep, but after you've hung it into a net and you
41 put the weed (ph) line and the -- I mean, you put the
42 cork line and the lead line on it, and you've hung the
43 thing up, it's 21 to 22 feet, which doesn't hang very far
44 down in 60 feet of water. So, thank you.

45
46 ACTING CHAIR GOTTLIEB: Thank you. Other
47 comments or questions.

48
49 (No comments)

50

1 ACTING CHAIR GOTTLIEB: Okay. We'll move
2 to Interagency Staff Committee. Pete.

3
4 MR. PROBASCO: Thank you, Madame Chair.
5 The Interagency Staff Committee also spent quite a bit of
6 time on this proposal, and our comments are reflected on
7 Page 145 and 146 and I won't go through all of them. But
8 the Staff Committee comes before you with a split vote,
9 evenly split, on this issue.

10
11 And the first option and recommendation
12 is to oppose the proposal consistent with the
13 recommendations of the Western Interior and Y-K Delta
14 Regional Advisory Councils, but contrary to Eastern
15 Interior. The justification for this recommendation is
16 adopting a regulation to reduce the depth of gillnets
17 would require subsistence users to expend more fishing
18 effort to harvest chinook salmon since people would
19 likely have to fish longer with shallower, less efficient
20 nets to meet their subsistence needs. Many subsistence
21 salmon fishers would likely have to modify or purchase
22 new nets to comply with any change in net depth
23 regulations. This would be detrimental to subsistence
24 users because of the financial burden associated with
25 purchasing new nets. The stronger chinook salmon returns
26 in the past three years in combination with the current
27 windowed subsistence fishing schedule has improved the
28 opportunity for subsistence harvest throughout the Yukon
29 River.

30
31 The other recommendation from the Staff
32 Committee is to defer the proposal, contrary to the
33 recommendations of all three Councils. The justification
34 is deferring the proposal would allow time for additional
35 scientific data to be obtained to complement the
36 traditional ecological knowledge regarding the influence
37 of drift gillnet, depth and/or mesh on the gender and
38 size of chinook salmon returning to the Yukon River.
39 More definitive scientific information may be available
40 from ongoing research that is conducted on the Yukon
41 River by Yukon River Drainage Fisheries Associations, or
42 YRDFA, and other organizations. New studies that may
43 assess the effects of gear type on chinook stock
44 composition are also being proposed under the FIS and
45 AYKSSI funding programs. A deferral of this proposal
46 would therefore enable the Federal Subsistence Board to
47 review the data from ongoing studies.

48
49 Thank you, Madame Chair.

50

1 ACTING CHAIR GOTTLIEB: Thank you. Any
2 questions.
3
4 (No comments)
5
6 ACTING CHAIR GOTTLIEB: State of Alaska.
7 Dan.
8
9 MR. BERGSTROM: Thank you, Madame Chair.
10 The Department's comments on Proposal 04, depth of
11 gillnets. Although poor runs occurred from 1998 through
12 2000, the Yukon River chinook salmon stocks are not
13 classed as either a conservation concern or a management
14 concern. In all years except for the very poor chinook
15 salmon run in 2000, there's been reasonable opportunity
16 for subsistence fishers to meet amounts necessary for
17 subsistence. A majority of escapement goals have been
18 met or exceeded since 2000, specifically the agreed to
19 escapement objective for Canadian -- the Canadian main
20 stem stock has been met every year since 2000 with 2001,
21 2003 and 2005 being three of the highest spawning
22 escapements on record. Escapement goals in the Chena and
23 Salcha Rivers have been met or exceeded annually since
24 2000 with the upper ends of the goals doubled in the
25 Chena in 2003 and in the Salcha River in 2001, 2003 and
26 2004.
27
28 A decline in the proportion of seven-
29 year-old chinook salmon was observed in the commercial
30 harvest in the mid 1980s, but this proportion has shown
31 an increase during the last few years from production in
32 the mid 1990s -- after the mid 1990s. An analysis of the
33 king salmon age, sex and length from selected tributaries
34 by OSM that you heard earlier indicated there has been a
35 small decrease in large spawning fish in most
36 tributaries, and a marginal decrease in the average
37 length of older aged six and seven-year-olds in several
38 tributaries.
39
40 There are no clear time trends found in
41 proportions of either female or older king salmon.
42
43 At this time it is not possible to
44 determine whether size selective harvest, or a variation
45 in environment, or a combination of factors is the cause
46 for these trends. We do know that there's been major
47 changes in the ocean since about 1996 where we've seen
48 lots of salmon stock declines along the western coast.
49
50 Other studies are ongoing to determine

1 trends in the size or age of fish. Studies of the
2 incidence of Ichthyophonus in Yukon River chinook salmon
3 are ongoing. Presently, while females appear to be
4 infected at a higher rate than males, there appears to be
5 no identifiable impact on the spawning grounds.
6

7 Thus at this time there's little hard
8 information or specific data upon which to judge the
9 potential effect of this proposal. The depth of gillnets
10 fished in the Yukon River is a major issue, and the
11 public will want to thoroughly discuss this issue. The
12 Alaska Board of Fisheries cycle for the AYK region will
13 be coming up after this next fishing season, 2006/2007.
14 And we recognize that the public and Regional Advisory
15 Councils have expressed concerns that deeper nets may
16 take more of the larger female fish. To help address
17 these issues, the public needs to see a thorough summary,
18 including results of additional studies regarding fish
19 size and gear, and staffs reports from those projects in
20 progress. The department recommends evaluation of that
21 information before considering action via this or another
22 proposal.
23

24 And just as one additional comment, we
25 have heard about that we have a lot of commercial age,
26 sex, size information, but it's a lot of samples compared
27 to what we've seen that was analyzed on the escapement
28 information by OSM, and we're still building that data
29 base and making sure that we have the information there
30 accurate before we go ahead with further work on that.
31 But that's what we're working on at this time is to be
32 able to go through those commercial samples, and it's
33 about 30 years of information, so there's a lot of data
34 there.
35

36 Thanks.
37

38 ACTING CHAIR GOTTLIEB: Thank you. Oh,
39 Kelly, go ahead, please.
40

41 MR. BERGSTROM: I'm sorry, Madame Chair.
42 Let me get to the recommendation. We do not support the
43 proposal.
44

45 ACTING CHAIR GOTTLIEB: Kelly.
46

47 MR. HEPLER: Thank you, Madame Chair.
48 I'm going to probably give a little bit of a softer
49 answer than Dan's at the end there, is that this is not a
50 new issue, Andy. We've heard this from the Board of Fish

1 many, many years. Virgil Umphenour and Dr. White in
2 particular were champions of this cause. This is not the
3 first place obviously around the state where we've
4 discussed it. There area variety of net selectivity
5 studies available. We have to look at these things when
6 we're developing research plans for the same reason.

7
8 Any time we make this kind of decision
9 with people's livelihoods in the balance, you want to be
10 sure it's based on as much good science as you can, and I
11 guess particularly in this forum, coupled with the local
12 knowledge. Always these solutions are better when
13 they're being based I think on -- coming from the locals.
14 I believe that very strongly.

15
16 In this situation I think -- I'm not sure
17 where the Board's going to go with this, Madame Chair,
18 one way or the other. I don't know if you're going to
19 defer or whether you're going to vote it up or down.
20 That's certainly your prerogative, not ours. But I would
21 strongly suggest that this issue is probably not going to
22 be resolved this morning. I strongly suggest that when
23 you do have the better science between what I think Dan
24 committed to as a department and what YRDFA's doing, what
25 OSM has, is that we make a commitment as technical people
26 to bring that back into a forum and with the tri-
27 Councils, and hopefully the advisory committee at the
28 same time, and hopefully a solution will be generated
29 from the users, that can be brought back in to whatever
30 forum, whether it's the State forum on the commercial
31 side or whether it's the subsistence side on the Federal
32 side. I believe as the State is concerned, we'll commit
33 whatever time and effort we can to make sure that the
34 local people get the information they need to make a very
35 good informed decision, and hopefully at some point we
36 can put this to rest.

37
38 Madame Chair.

39
40 ACTING CHAIR GOTTLIEB: Thank you. And I
41 really appreciate your offer there of time and
42 commitment. I think we all recognize that especially
43 with the upcoming Board of Fisheries meeting and the
44 relatively short deadline to get a joint proposal in for
45 that, any joint discussions would have to occur quickly
46 and also have further discussions when more of the
47 science is available. So I really appreciate that offer.

48
49 Dan, if I might, I just had a couple
50 questions on some of the things you said, and then one

1 thing I read about that you said. When might this data
2 that you referred to from the commercial fishery, when
3 might that be available after some preliminary analysis?
4

5 MR. BERGSTROM: Madame Chair, we'd be
6 certainly trying to have it available by, you know,
7 sometime this fall, but it's still -- the hard part is
8 we've been putting all of this information into a big
9 data base, and, you know, just to make sure that
10 everything's accurate in there before we do it. And then
11 we are trying to draw in a lot of the Canadian
12 information, so we'll be working on that in the next
13 couple of months when we meet in JTCM panel and make sure
14 we have all the information from over there. And then I
15 imagine it's a lot of information there that's -- I saw
16 as OSM found out that it takes time to go through that
17 and make sure you've done it right so it's -- that would
18 be the objective is to have it, you know, prior to the
19 Alaska Board of Fisheries meeting.
20

21 ACTING CHAIR GOTTLIEB: And then are
22 chinook classified a stock of concern on the Yukon?
23

24 MR. BERGSTROM: Yeah, Madame Chair,
25 that's correct. It's a stock of concern, but it's at the
26 yield level, which is based on the yield is well below
27 what the historical average has been.
28

29 ACTING CHAIR GOTTLIEB: Go ahead, Denny.
30

31 MR. BSCHOR: Yeah, Madame Chair, I have a
32 question for Mr. Bergstrom also. Relative to the
33 commercial studies that you've done, do you -- then-- I'm
34 intrigued by Andy's concern about the girth. Do you have
35 any figures on the girth or the mass of the fish that you
36 study?
37

38 MR. BERGSTROM: Yeah, through the Chair.
39 We did do a girth and weight/size study this last summer,
40 but I don't believe we've, you know, totalled up or had
41 any result from that yet, but we were trying to look at
42 that. And one of the ideas is to be able to go back
43 maybe through time and be able to say from lengths
44 earlier on in other years what the weight would have
45 been, because that's one of the issues, we don't have
46 much weight information on individual fish. And then we
47 did -- I think as part of that request from the public
48 was to start looking at the girth, too, instead of just
49 length.
50

1 MR. BSCHOR: And, Madame Chair, I'm also
2 interested in whether the studies that Karen Hyer
3 discussed yesterday include that sort of information.
4 Perhaps we could get that answer, too.
5
6 ACTING CHAIR GOTTLIEB: Sure. Karen, if
7 you would, please. So the question is whether some of
8 the girth information is perhaps included in your ongoing
9 analysis.
10
11 MS. HYER: Could you repeat the question,
12 please.
13
14 ACTING CHAIR GOTTLIEB: Whether some
15 girth information about salmon is included in your work.
16
17 MS. HYER: There's very little girth
18 information that exists, and so none of it was included
19 in my work. The State has one project where they are
20 measuring girths. I think this was the first year that
21 they actually collected that information..
22
23 ACTING CHAIR GOTTLIEB: Perhaps a follow
24 up question might be whether in future studies that could
25 be included as a criteria.
26
27 MS. HYER: Oh, very definitely. I think
28 in any proposal that's submitted, that would be
29 information worth collecting.
30
31 ACTING CHAIR GOTTLIEB: Okay. Thank you.
32 Dan, I was going to ask, I'd read that you said, so it may
33 or may not be accurate, that you are considering looking
34 at changes in mesh size. Do you want to comment on that?
35
36 MR. BERGSTROM: Yes, Madame Chair. I
37 think what Kelly Hepler had said earlier, that what we
38 need to look at is, you know, what the public -- is to
39 come up with a determination of what the issue is,
40 exactly what the specific objective or goal might be to
41 work towards, and then how do you get there. And that
42 could be whether it's depth of nets or a mesh size type
43 of thing.
44
45 ACTING CHAIR GOTTLIEB: Thanks.
46 Appreciate that. Gary.
47
48 MR. EDWARDS: Madame Chair, I have a
49 couple also questions for the State. How long has the
50 large nets been used in the lower river?

1 MR. BERGSTROM: Well, Madame Chair. Mr.
2 Edwards, if you're asking in like commercial, being since
3 1918, but -- and that would include subsistence, it's as
4 long as people were targeting chinook salmon, they'd be
5 using the larger mesh nets. And so commercially we know
6 it's since 1918, and subsistence-wise, I imagine somewhat
7 earlier than that. And then it wouldn't be just in the
8 lower river. It's, you know, wherever people would be
9 using gillnets targeting chinook salmon, they'd be using
10 larger mesh. And that goes right on into Canada.

11
12 MR. EDWARDS: Thank you. And one other
13 question, is there any other place where -- or other
14 fisheries where the State has reduced mesh size or mesh
15 depth because of concerns with harvesting too large of
16 fish, or -- I mean -- or any other kind of reasons for
17 making those kind of reductions?

18
19 MR. BERGSTROM: I think it's -- Madame
20 Chair. I think it's somewhat addressing in these mesh
21 size changes that are used in commercial fisheries in
22 other areas where they've gone from a large mesh, say
23 eight and a half inch, and then gone down to a six or
24 less. It's partly due to chinook salmon management, but
25 on the other hand, they are targeting other fish, like
26 sockeye say in the Copper River, or in Cook Inlet, or in
27 the Kuskokwim, the idea was to switch mesh sizes down to
28 six-inch and smaller, and then the target was on chum
29 salmon. So it was somewhat to be off of chinook salmon,
30 but it's also that it's targeting another species.

31
32 MR. EDWARDS: And I guess I just want to
33 -- what about the concern that was raised that even if
34 you do go to a smaller mesh size, larger fish still get
35 hung up and, as I guess the expression was used, drop out
36 of the -- and so as a result that they really don't --
37 you're not really passing those larger fish. In fact,
38 you're not harvesting them, and then my assumption is
39 then they just eventually die before they get to where
40 they're supposed to be headed.

41
42 MR. BERGSTROM: Yes, Madame Chair. We've
43 heard from fishermen that they feel that there's dropouts
44 from the small mesh, and they do have experience with
45 that, because we've targeted chum salmon openings where
46 we go to a six-inch and smaller mesh, and they feel that
47 fish are hung up and maybe held in the net long enough
48 that they're not swimming and that they die. But it
49 would be really hard to design a study to actually see
50 what that might be. And I imagine that if you think

1 about it, that you would assume that there would be some
2 mortality, but how much would be you know, difficult to
3 assess.

4
5 ACTING CHAIR GOTTLIEB: Thank you. Are
6 we ready for Board discussion or any other comments
7 first.

8
9 (No comments)

10
11 ACTING CHAIR GOTTLIEB: We'll move to
12 Board discussion then.

13
14 UNIDENTIFIED VOICE: Do we need a motion,
15 is that what you.....

16
17 ACTING CHAIR GOTTLIEB: No. Well, I'll
18 step out of my chair role for a second and back to my
19 National Park Service representation and make a few
20 comments.

21
22 The Board in carrying out our ANILCA
23 mandates is responsible for the continued viability of
24 populations. I believe from what we've heard, what we've
25 seen, what we've heard for many years, and what some of
26 the studies are starting to show, that the proportion of
27 lower -- of larger fish in the population that has been
28 caught or that reaches the escapement grounds has changed
29 over the years. And this situation is a detriment to the
30 health of the species, and really to all users, so it
31 really does bear some further investigation and certainly
32 bears communication and discussion. So I'd hope we could
33 all as a few of you have said come to the table and
34 analyze what really is the problem here.

35
36 Last year the Board did pass in part of
37 the river a 35-mesh depth requirement as Ron mentioned.
38 And we heard similar testimony last year from the local
39 users that it might provide a hardship, or that it would
40 be financially costly. I guess from what information we
41 were able to gather about seven people fished last summer
42 and did not report that it was a hardship to modify, or
43 maybe they already had the correct kind of net, and took
44 about 77 chinook.

45
46 We heard a lot of concerns yesterday from
47 lower river users as I said along the same lines,
48 reacting to this proposal which is maybe an attempt at a
49 solution, but it's not really getting at the heart of the
50 problem, which now we've also heard some testimony and a

1 great deal of discussion, and I think agreement, that we
2 need to get -- to clarify what is the problem, what data
3 might we need, what other information could we use, to
4 really develop regulatory solutions that can be accepted
5 by both the Board of Fisheries and this board and really
6 make sense for the conservation of the species.

7
8 So we've heard a lot of variables, and
9 we've had some preliminary results from the study. And I
10 want to ask Fred Anderson if you had a couple comments to
11 add to some of this discussion, to, please, if you'd take
12 a minute to come up.

13
14 MR. ANDERSON: Good morning, Madame
15 Chair. Members of the Board. I'm Fred Anderson. I work
16 for the National Park Service in Fairbanks. I'm a
17 fisheries biologist.

18
19 I scratched out a number of comments this
20 morning in hopes that I'd be able to speak to the Board,
21 but Andy and others have quite ably touched on most,
22 maybe all of the points that I would have made, so in the
23 interest of time and in the interest of not making this
24 place sound like an echo chamber, I'll not revisit each
25 of those.

26
27 I'd like to thank Tom Boyd and his staff
28 for undertaking this study. I know they're --
29 everybody's busy, and this was an arduous and very time
30 consuming piece of work, and given that in my opinion
31 this is probably the most serious issue facing Yukon
32 River fishers and managers, I appreciate this good piece
33 of work that helps to lay bear the issue of it and
34 elevate the issue to its proper level of importance.

35
36 One point that Andy made that I would
37 like to revisit is the importance of the Canadian chinook
38 salmon production to our fishery on the Alaska side of
39 the border. ADF&G estimates year in and year out
40 indicate that Canadian stocks produce on average fully 50
41 percent of our harvest. 50 percent on average. And I
42 think it's gone up as high as 60 percent. I'll let Dan
43 correct the record if that's not right. So it's -- those
44 fish are hugely important to us, not just to support the
45 Canadian fishery, but our own. To maintain the
46 continuity of our fisheries, it's obviously in our
47 interest to maintain the health and well being of the run
48 and spawning stocks on that side of the border.

49
50 The study sort of bore out logic that, or

1 of mine anyway, that the effects, if there are effects of
2 selective harvest by net depth or mesh size, that those
3 effects would be pronounced up river. And every
4 parameter examined, whether it's proportion of females,
5 or fish over 900 millimeters, or proportion of six and
6 seven-year-old fish, the oldest component, or length at
7 age, those changes were much more pronounced, and maybe
8 profound even in that upriver Canadian stock. I think
9 the Big Salmon River is about 1600 miles from the mouth,
10 and we're comparing the effect of the fishery essentially
11 on an animal that that migrates 1600 miles with other
12 stocks of fish, Andreafsky, for example, which is 120 or
13 130 miles from the mouth, and Anvik which is 300 miles
14 from the mouth of the Yukon, or Gisasa, which is about
15 540. A world of difference in terms of exposure of those
16 animals to selective harvest by gillnet. Canadian stocks
17 have another 1,000 miles or more of exploitation by
18 selected gear than do the stocks to which they're being
19 compared. So I think that's an important point.

20
21 One thing we heard yesterday that I kind
22 of take exception to in the report, a very good report
23 and I appreciate Karen Hyer's work, and Cliff
24 Schleusner's work, and the support that Steve Klein gave,
25 but we heard the term I think three times that there are
26 no significant drainagewide trends. And I think there
27 might be a tendency on the part of decisionmakers to
28 relax a little back when they hear a phrase like that, no
29 significant drainagewide trends. But that needs to be
30 thought about in the context of the Yukon River, which is
31 1800, 2000 miles long, and a drainage of about 330,000
32 square miles. I don't think -- or I do think that if we
33 had a drainagewide trend, it would be far too late to do
34 anything. I agree with Andy's analogy that those upriver
35 stocks are very likely the canary in the coal mine, the
36 very first stocks to show the effects of these changes
37 over time.

38
39 It's unfortunate that so little data was
40 available to the staff to look at from Canada. It was
41 only nine years I think. And the most recent of those
42 nine years for which data are available for Canadian fish
43 was 1990. So we're looking at stuff that's a minimum of
44 15 years old, and it's very likely that the trends shown
45 by the work have continued in the succeeding 15 years, or
46 20 years in the case of the data collected earlier. And
47 it's also very likely that those trends are at work in
48 other Canadian streams, the Little Salmon, the Nusutland,
49 the Tazlin and numerous other spawning streams in Canada.
50

1 So I'll leave it at that, except to say
2 that although those stocks produce about 50 percent of
3 our annual harvest, almost 100 percent of the harvest in
4 District V comes from Canada. There are no sig -- to my
5 knowledge, no significant spawning streams in District V,
6 which is mainstem Yukon running from the Tanana River
7 confluence approximately all the way up to the Canadian
8 border. There's a handful of streams in the Yukon
9 Charley that produce a few fish, and I understand the
10 radio tagging study indicated that the Chandalar River
11 produces more kings than what we knew about or what we
12 expected. But for the most part, all of the harvest in
13 District V, Tanana, Rampart, Steven's, Beaver, Fort
14 Yukon, Circle and Eagle, comes -- is of Canadian origin.
15 So if those stocks fold, and I'm not -- I don't mean to
16 say that they're about to, but we're hugely dependant in
17 a large portion of the drainage on Canadian River
18 production.

19
20 So with that, I'll stop and, thank you,
21 Madame Chair.

22
23 ACTING CHAIR GOTTLIEB: Thank you, Fred.
24 Questions for Fred. Gary.

25
26 MR. EDWARDS: Fred, all of that said
27 then, what do you suggest needs to be done?

28
29 MR. ANDERSON: Madame Chair, as has been
30 said by others, I think we need to look very closely at
31 what data we have. It sounds like there's more available
32 that's not yet been collated and analyzed. I think it
33 would be instructive to do a literature search, see
34 what's been -- see what the experience in other fisheries
35 has been. There are -- is anecdotal information, maybe
36 gutter rumor, that we -- that there's been dramatic
37 declines attributed to mesh size in fisheries such as the
38 Nushagak and Columbia. I can't verify that. But it's
39 likely that there are -- that those declines, if in fact
40 they occurred, are well documented. So I think we'd be
41 well advised to take a look in the literature, gray and
42 otherwise, and see what's there and maybe apply what's
43 been learned elsewhere to the Yukon River before the
44 situation becomes irreversible.

45
46 ACTING CHAIR GOTTLIEB: Fred, maybe you
47 or Kelly, what's the reason there's no more recent
48 Canadian data? Is it -- I guess just what's the reason
49 for that?

50

1 MR. ANDERSON: Again maybe Dan can
2 correct me, but my recollection is that ADF&G collected
3 that data, and they did so as part of the skill pattern
4 analysis study, collecting baseline information in
5 Canada, and that baseline information from that area and
6 other areas allows them to estimate the contribution of
7 salmon stocks to the whole from various regions. Upper
8 Yukon, middle Yukon, and lower Yukon. Once that data set
9 was -- once they had enough baseline data, I think they
10 ceased going up there, and the Canadians just didn't, for
11 whatever reason, pick up the ball.

12
13 ACTING CHAIR GOTTLIEB: Dan, anything to
14 add?

15
16 MR. BERGSTROM: Yeah, Madame Chair,
17 that's basically it. It's through the 80s the Department
18 actually went over and collected spawning chinook salmon
19 ASL information, and then it was basically, you know,
20 kind of some budget cuts came up, and we felt we could
21 cut there, and they should do their own work. And we've
22 pressed them in JTC meetings since that time, and it's
23 just, you know, different funding and different issues
24 there, and they really haven't covered that data. And
25 you probably read about what I said about that, too.
26 Infuriating.

27
28 ACTING CHAIR GOTTLIEB: Well, I was just
29 wondering if it -- if there's any benefit to the Board,
30 you know, writing through the -- through our regular
31 channels to ask for that information to be gathered
32 again.

33
34 MR. BERGSTROM: It probably wouldn't
35 hurt, but we have had more pressure, and it's just kind
36 of part of the R&E funds. It's kind of, you know, that
37 we have to pay -- the U.S. pays to Canada as part of the
38 agreement, that they put a lot of it into different
39 watershed things rather than these type of projects, but
40 there's more pressure now at the last panel meeting to
41 move more towards intensive projects, so it's going to
42 get better it looks like.

43
44 ACTING CHAIR GOTTLIEB: Good. Thank you.
45 Other questions or comments.

46
47 MR. BUNCH: Madame Chair.

48
49 ACTING CHAIR GOTTLIEB: Yes, sir.

50

1 MR. BUNCH: I'm -- like I say, I just
2 fill in this on Niles, so I'm not a rocket scientist, but
3 it seems to me that if you're going to look after the
4 well being of the resource, if changing the size of the
5 net isn't an acceptable option, then only other option
6 that would produce a result would be a reduction in the
7 effort. But it looks to me like it's kind of like the
8 law. You've got to read the law as the whole I've been
9 told, and the effort of the Subsistence Board, it seems
10 to me that without the State working with us on the
11 commercial fishing, that it's going to be just kind of a
12 one-way street, so I was glad to hear or I understand
13 that Kelly said the State would be more than willing, and
14 I was glad to hear that. So I think that those are kind
15 of the two approaches that we've got, and it seems to me
16 like the mesh size question, there's just a lot of
17 unanswered questions that have to do with whether
18 reducing the net size or the length would actually come
19 out to affect the well being of the resource.

20
21 ACTING CHAIR GOTTLIEB: My suggestion
22 would be we have heard I believe a lot of consensus about
23 the vital need for people to get together and talk.
24 We've heard lots of potential reasons for problems, but
25 we haven't had a clear definition of the problem. So I
26 guess I'm wondering if this Board would consider tasking
27 or taking on putting together a working group, obviously
28 with the State, with the Regional Advisory Council
29 perhaps chairs or chairs and co-chairs, to -- one
30 objective might be to try to develop a proposal that
31 would be acceptable by all parties to put before the
32 Board of Fisheries and to come before this Board next
33 year. And that proposal would have to, you know,
34 accurately identify and describe what the issue and
35 present possible corrective actions for it. You know, I
36 think we can identify the available information, we can
37 identify what it -- when further information is
38 anticipated to be available. We can say what information
39 needs would still need to be gathered, and understand
40 what can't be gathered within a certain time frame given
41 that time is marching on. So I think if we can develop
42 some sort of proposal for both boards in a timely way
43 that accurately describes the issues and concerns and
44 identifies reasonable and appropriate and acceptable
45 corrective actions, as well as addressing the risk of not
46 looking at the issue. I would like the Board to think
47 some sort of riverwide participation on a perhaps work --
48 sub group of one or all of the RACs. Andy.

49
50 MR. BASSICH: Thank you, Madame Chair.

1 It's my personal feeling that that is already in place
2 with YRDFA. The Yukon River Fisheries Drainage
3 Association has done a pretty spectacular job of pulling
4 fishermen together all up and down the river, and has
5 taken on other challenges such as windows in the past and
6 brought everybody together and come up with good
7 solutions. And I feel personally that that's probably
8 the most effective place for a lot of this discussion to
9 take place, because these people are used to working with
10 each other. they have a good understanding of the
11 issues, and I just feel that that would be a good place
12 to begin to resolve some of this, or at least get strong
13 discussion for solutions. Thank you.

14

15 ACTING CHAIR GOTTLIEB: Ron.

16

17 MR. SAM: Thank you, Madame Chair. This
18 is an eons old problem I guess. It's also cultural, and
19 it's always been upriver versus downriver, and Western
20 Interior's caught in the middle.

21

22 And the other way that we can address
23 this issue is through -- we do have coordinating
24 fisheries committees. We have two members from each
25 region on the Yukon River Coordinating Fisheries and the
26 Kuskokwim Coordinating Fisheries. That's another way we
27 can address this issue. I think it will take some time
28 to resolve this issue though. Thank you, ma'am.

29

30 ACTING CHAIR GOTTLIEB: Lester.

31

32 MR. WILDE: Madame Chair, I believe that
33 Andrew's suggestion is a good one, since I'm also a board
34 member of YRDFA, and we do try to keep the vil -- the
35 users, the resource users united on any decision that we
36 make. And YRDFA is the only organization within the
37 state that operates on consensus basis.

38

39 ACTING CHAIR GOTTLIEB: Gary, did you
40 have a comment?

41

42 MR. EDWARDS: Well, I was just trying to
43 think through. I mean, it just seems to me that this
44 issue is bigger than this Board, and I guess, I don't
45 know, the Board of Fish will not take up Y-K until what,
46 2007 or.....

47

48 MR. BERGSTROM: Yeah, that's -- well, it
49 would be January 2007, so after this coming season.

50

1 MR. EDWARDS: Yeah. And what do you
2 think the Board of Fish interest is in trying to help
3 address and work collectively with everybody in trying to
4 get more information, help solve the problem, put working
5 groups together or whatever might be the proper vehicles
6 to try to address the issue?

7
8 MR. BERGSTROM: Yeah, Madame Chair, maybe
9 Mr. Hepler would have a comment, too, but I think they
10 know this is a big issue. My feeling with the Board, you
11 know, it's a crush if you're just going in there and
12 there isn't a lot of work done and in front of it to try
13 and go through a proposal like -- that would be this type
14 of issue. I'd kind of go with Ron. I think it's going
15 to take some time. And so you'd want to do a fair amount
16 of work in front of the Board process that -- like
17 through the YRDFA group, or having the coordinating
18 committee with the YRDFA group or something where they
19 would be trying to come in with something that people are
20 kind of getting agreement on. Otherwise it will be
21 really difficult right at the Board meeting to -- for
22 them to I think to through in something really major as a
23 change. So I think it could be that it would take some
24 time.

25
26 ACTING CHAIR GOTTLIEB: Kelly.

27
28 MR. HEPLER: Madame Chair, I just want to
29 echo that, and also what Gary said, is that's -- you
30 know, hopefully my comments, what I was trying to make
31 clear to people, that this is clearly bigger than any one
32 board, just because of the nature of the fisheries. And
33 so what kind of organization you set up, I wouldn't want
34 necessarily the Board itself to set up its own
35 organization, and YRDFA it's own organization, so if
36 YRDFA is the best middle ground then, you know, that's up
37 to local call on that.

38
39 It think the Board is always interested
40 in dealing with contentious issues, just like this Board
41 is, and there again, this is -- since it is so
42 contentious, it's been in front of the Board repeatedly,
43 you don't want to go back in front of the Board one more
44 time and have Andy or somebody else here back in front of
45 this Board saying, well, that didn't work once again. So
46 I think that up front work is important.

47
48 Now, we can certainly -- we'll be talking
49 to the Board in another two weeks down in Ketchikan, and,
50 you know, between us we can certainly talk to Art and

1 some of the Board members, you know, but I would think
2 because of Art's background coming off the Yukon, he'd
3 certainly be sensitive to this issue. So if you want, we
4 can have those discussions. We can get back to you,
5 Madame Chair, on what their -- you know, what they'd like
6 to do. And I'd, you know, prefer to have the Board speak
7 for themselves, obviously, but I know that they'd love to
8 get this thing resolved, and get it resolved by local
9 interests. And if you can do that in partnership
10 working, you know, with the Federal Subsistence Board,
11 we're much better off.

12

13 Madame Chair.

14

15 ACTING CHAIR GOTTLIEB: Absolutely agree,
16 and we know it's bigger, but we also know what our charge
17 is regarding subsistence priority, and within our own
18 bounds, we do have the three RACS and the coordinating
19 council, and so I was only addressing sort of what we
20 might have most immediate control over in terms of asking
21 to do work, but which would obviously include the State
22 and other interested parties.

23

24 I guess my hesitation to -- it would be
25 difficult I think for us to sort of hand it over to YRDFA
26 per se, and maybe if we can work as a subset, and also
27 appreciate your offer to speak with Board of Fisheries
28 members. I also understand we're understand we're under
29 a deadline of April 20th to get a proposal in, so that
30 really doesn't leave too much time to come to come to
31 some understanding of problems and possible solutions.

32

33 Pete and then Steve. Sorry. Or.....

34

35 MR. DOUGHERTY: Madame Chair. Steve
36 Dougherty with the Department of Law. I would just like
37 to inform the Board about the Board of Fisheries process.
38 We do not have to have a completed regulatory proposal
39 before the Board. A strawman proposal that basically
40 says we want to do something in this fishery. The Board
41 can do anything and everything if they have just that
42 fishery noticed.

43

44 ACTING CHAIR GOTTLIEB: Great.

45

46 MR. DOUGHERTY: So all that would have to
47 be in for the proposal deadline is some proposal for the
48 fishery to change the gear or the manage -- and the
49 management plans for the fisheries.

50

1 Thank you, Madame Chair.

2

3 ACTING CHAIR GOTTLIEB: Thanks. That's
4 real useful information. That would be much better.

5

6 MR. EDWARDS: I guess I'm a little
7 concerned that we seem to be more worried about deadlines
8 and all than trying to find the silver bullet to address
9 this problem. And I guess I'm a little concerned given
10 the breadth of the Yukon and the drainage and the various
11 ownership or management responsibilities up and down it,
12 it just seems to me that it's good public policy to try
13 to work collectively and address the entire drainage. It
14 doesn't make sense to have -- as the Board knows, when we
15 made our decisions on the drift gillnets up in IV, it's B
16 or C, I can't remember what, you know, I was concerned
17 that now we have a separate set. And you can float down
18 the river and then you hit a spot and then you've got to
19 change. And it's just -- I mean, I just think that
20 somehow what -- and I don't think we can do it today.
21 We're not going to come up with the silver bullet as to
22 what the right process is, but I think we recognize the
23 concerns. I think we heard it almost from everybody that
24 spoke. Unfortunately, I don't think the proposal we have
25 in front of us is a silver bullet either to try to
26 address this issue.

27

28 And I don't know where we go from here.
29 I don't think we're going to -- can sit here today and
30 sort of figure out what to do. I do think it's going to
31 be important that we work with the Board of Fish and that
32 we work with YRDFA. And I don't know what the next step
33 is, but I don't -- I'm pretty sure we're not going to
34 solve it right here.

35

36 ACTING CHAIR GOTTLIEB: Denny.

37

38 MR. BSCHOR: Yes. Gosh, this issue is
39 definitely bigger than all of us. It's one of the issues
40 that got my attention when I first came to this Board,
41 and it still has my attention, so no matter what we do
42 with this particular proposal, from my perspective, the
43 issue doesn't go away. Even if we accept the proposal.

44

45 But I do agree that we -- this riverwide
46 and country -- and actually international coordination is
47 extremely important, and I'm pleased to hear the
48 cooperative tones I'm hearing today.

49

50 I would ask if maybe Jill Klein, I

1 believe she's in the audience, is available, and maybe we
2 could just hear from here. I know -- not with the
3 objective of trying to solve this issue today, but to
4 hear the perspective from the YRDFA folks.

5
6 ACTING CHAIR GOTTLIEB: Jill, if you'd
7 like to come up, please. And then Ron afterwards.

8
9 MS. KLEIN: Good morning, Madame Chair,
10 members of the Board and Council members. Just for the
11 record, my name is Jill Klein with the Yukon River
12 Drainage Fisheries Association.

13
14 As you heard yesterday in my testimony,
15 which is reflective of our 16 board members from up and
16 down the Yukon River, we are very concerned about this
17 issue. However, due to the concerns that many have
18 stated and I stated as well yesterday, we are opposing
19 the proposal at this time.

20
21 Just briefly, we -- at the last Board of
22 Fish meeting this issue did come up as you've heard, and
23 we did respond to the Board of Fisheries that we would be
24 addressing this issue in our forum, be it through
25 discussion, riverwide discussion amongst our board
26 members and membership at our annual meetings. And as
27 well we did take up a study which we haven't yet
28 completed. But as I mentioned, we did review the same
29 data, and it is just good to have different sets of eyes,
30 even though it's the same data to review, because it does
31 I guess lend more objective, hopefully, information to
32 the same issue that you can have different people,
33 different scientists reviewing the same data and seeing
34 what their conclusions are.

35
36 And we are also interested in the
37 commercial catch data that Fish and Game mentioned. We
38 did look into gear size issues, what the different gear
39 types, what the sizes are that are being used on the
40 river.

41
42 And we are having our upcoming annual
43 meeting in Ruby, which is this February 13th through the
44 16th, and we will be discussing this issue as it is quite
45 important, and we're starting to get ourselves into
46 planning mode for the Board of Fish meeting in January
47 2007.

48
49 So we would welcome the coordinating
50 fisheries committee members and any other Regional

1 Advisory Council members to attend the meeting. I know
2 it's kind of short notice, but we are also planning for
3 the April deadline for the proposals into the Board of
4 Fisheries, and so we'd welcome the opportunity to have a
5 riverwide discussion amongst local people on the river.
6 And we would like though to have some of the scientists
7 working on the issue as well to be able to have a well-
8 rounded discussion, maybe even a regulatory perspective,
9 too.

10

11 So that's where we are at right now in
12 our process. And I'll answer any other questions if I
13 didn't address it.

14

15 MR. BSCHOR: One more if I could. Do you
16 have any recommendations on how the users and the Boards
17 should work together in a regulatory sense, and any
18 suggestions for us?

19

20 MS. KLEIN: Well, as you've been
21 discussing, there are different forums that exist. I do
22 think it's a good idea for the Regional Advisory
23 Councils, I know there's been pros and cons to doing the
24 tri-RAC meetings, but I think just among the members of
25 the Regional Advisory Councils it's important for them
26 all to discuss this issue, because they've been
27 discussing it separately. So I think that's important on
28 some level for the Regional Advisory Councils to move
29 forward together on the issue. And I think that's one
30 piece of it.

31

32 But then I think another piece is for a
33 river -- more of a riverwide forum that would include all
34 the different groups working together. And so there's
35 numerous ones. There's YRDFA, there's the Regional
36 Advisory Councils, there's the tribal consortiums, and
37 then there's the State and Federal management agencies.
38 So I think a working group that could address the -- as
39 Judy mentioned, you know, let's really try to get a
40 problem statement together for everyone to agree on, if
41 we can, and then look at further research that might be
42 needed, and just go from there. I don't know if we're
43 ready for solutions yet at all, because we're still
44 understanding the problem, and as some people have pretty
45 well stated, depending on where you are on the river, you
46 have a really different understanding of the problem.
47 And so we might -- we need to -- I think people on the
48 river need to hear from each other and learn more about
49 the problem.

50

1 ACTING CHAIR GOTTLIEB: Thank you, Jill.
2 Any other questions for Jill. Kelly.
3
4 MR. HEPLER: Madame Chair, I'm not quite
5 sure where you're trying to go on the process here. I
6 would be hesitant at this time to say this is exactly the
7 process we're going to follow. You know, I can't expect
8 you to sit and commit to YRDFA, because you have a board
9 of directors you answer to. I understand that. You
10 know, there hasn't been enough -- you know, in my mind,
11 you know, we need to talk about the advisory committee,
12 so I guarantee you, if I don't talk about the advisory
13 committees, I'm going to hear about it, because we also
14 start separate processes within the Department of Fish
15 and Game and where's the advisory committees. I mean,
16 it's like your Regional Councils, so they're our body we
17 have to deal with. So no matter what solution we have,
18 they need to be part of that mix for the same sensitivity
19 we have for the Regional Councils. But I don't know if
20 we need to, you know, say exactly this is what the
21 process is going to look.
22
23 I think you have -- Steve Dougherty is
24 correct with the Board of Fish. That could be as simple
25 as a proposal to get in front of the Board. We commit,
26 we'll talk to the Board, you know, between Com Fish and
27 ourselves down in Ketchikan. If there's any problem with
28 them, I will certainly get back to you, Madame Chair, and
29 let you know that maybe we need to formalize some kind of
30 communication.
31
32 You know, I just think you need to commit
33 to certainly a riverwide and go on to a Canadian-wide.
34 I'm sure you can't commit the Canadians, but whatever you
35 want to do there, and say we're going to commit to a
36 public process, and we're trying to get solutions within
37 the next year so Andy's not beating on the table again a
38 year from now saying you haven't done anything. And I
39 would probably leave it open as far as who's going to run
40 what -- the process.
41
42 This is my suggestion, Madame Chair.
43
44 ACTING CHAIR GOTTLIEB: Thank you, Kelly.
45 Keith.
46
47 MR. GOLTZ: Yeah, let me just jump in on
48 the issue of simplicity. If we have a tri-Council
49 meeting, that's simple. If we have a proposal to the
50 Board of Fisheries, that's simple.

1 If we try to do this from the Federal
2 side though and include all the other entities, that
3 becomes complicated. We have FACA concerns which we may
4 be able to overcome, and we will certainly try if that's
5 the way you go. But it's a lot easier for this Board to
6 cooperate with somebody else than to try to be the
7 coordinating agency.

8

9 ACTING CHAIR GOTTLIEB: Ron, you had a
10 comment?

11

12 MR. SAM: Yeah. Thank you, Madame Chair.
13 As Chair of the Western Interior Regional Council,
14 Subsistence Council, I do not -- I am not counting on you
15 to come up with a deadline. I am not worried about
16 deadlines. It's just that as a Regional Council Chair I
17 would like this issue recognized and directed in some
18 manner. I do not see any resolution in sight as with
19 Resolution 03. I just want this to be recognized as an
20 issue by OSM and the Federal Subsistence Board that as
21 with Proposal 3, that this is a work in progress. I'm
22 not looking for any deadlines or any quick resolution on
23 this. Thank you, ma'am.

24

25 ACTING CHAIR GOTTLIEB: Thank you, Ron.
26 And I think some of the deadline discussion maybe is
27 alleviated by Steve's comment, so that was really
28 helpful. I think speaking on behalf of all the Board
29 members and probably everybody in the room, we're
30 recognizing a problem, and I think we're also recognizing
31 frustrations on probably riverwide as well. And so
32 perhaps the most practical thing to do right now is to
33 task perhaps OSM and Department of Fish and Game and our
34 solicitor to come up with a process where we can address
35 and try to clarify the issues, improve communication
36 amongst the parties, and hopefully arrive at some
37 solutions, but the main thing would be to simply get
38 together face-to-face and understand and communicate and
39 educate each other. And after that, solutions might be a
40 lot easier.

41

42 Dan.

43

44 MR. BERGSTROM: Yeah, Madame Chair, I
45 just did want to add one thing here is that, you know,
46 there's been a lot of concern expressed on this issue and
47 on the size of fish. It appears the seven-year-olds have
48 gone down. We have seen, you know, in the last couple of
49 years that it seems like it's stabilized, it's actually
50 come up again. It was definitely at a lower level in mid

1 or late 1980s, early 1990s.

2

3 And as far as, you know, nothing is being
4 done, but we would say that, you know, there definitely
5 is. We've heard a lot about the subsistence schedule.
6 There's a lot of people that don't like that very much,
7 but they have accepted it and they are, you know,
8 following it, and that that is providing, you know,
9 passing some fish through. And we have been very
10 conservative with the commercial fishery. The commercial
11 harvest is way below what it was historically, and so --
12 and what I did say earlier, what the escapements have
13 been. So, I mean, definitely an effort to do this type
14 of thing is to pass fish, and that we've been doing that.
15 And so I would say that, you know, there is some actions
16 being taken to address this. Thanks.

17

18 ACTING CHAIR GOTTLIEB: Thank you. And
19 you're right, there's been a tremendous amount of effort,
20 and we do appreciate all that work and the difficulties
21 in making some of those tough decisions. And I believe
22 we're hearing acknowledgement of the effort, but still
23 concerns upriver that have to be addressed.

24

25 Any further discussion.

26

27 (No opposing votes)

28

29 ACTING CHAIR GOTTLIEB: Are we then ready
30 for a motion on this proposal.

31

32 MR. EDWARDS: Well, to some extent I
33 think the motion becomes a lock here based upon all of
34 our discussion that we have just had. I guess maybe --
35 and I'll just go ahead and take a shot at one.

36

37 But before I do that, I do think that the
38 two respective Boards need to take some ownership for
39 this. I appreciate Kelly offering to kind of carry the
40 water to the Board of Fish meeting in I guess January in
41 Ketchikan. Or this month in Ketchikan. Whether there
42 would be value for, you know, the Board to be represented
43 there, and I guess we are through OSM, to sort of further
44 express the Board's willingness to, and wanting to, you
45 know, work with the Board of Fish on this, and then sort
46 of under that umbrella decide who all the other players
47 are and what's the best mechanism to address this,
48 because I'm certainly unclear as to what that is. So
49 maybe that's something that we want to consider.

50

1 But, you know, saying all that, and we do
2 still have this Proposal 4 in front of us, I guess I
3 would move that consistent with the recommendations from
4 the Yukon-Kuskokwim and the Western Interior Regional
5 Councils, that we oppose the proposal. I think we did as
6 we've all discussed. We've heard a lot here today, and
7 everybody expressed concerns about that. And we've had
8 information that was presented to us from the ASL study.
9 But as we heard from that, the information is really not
10 conclusive. We know that there may be a problem, but
11 exactly what the problem is, and in our discussions with
12 regards to nets and net size and mesh size, it doesn't
13 seem like maybe this proposal will really try to get to
14 the heart of the issue, because we don't I don't think
15 fully know what the issue is. I don't see any real value
16 in delaying action on the motion, because as new
17 information comes in as we go through this process, I
18 think the Board can -- will certainly be in a position to
19 address it.

20
21 So, Madame Chairman, my motion would be
22 again to oppose the proposal.

23
24 ACTING CHAIR GOTTLIEB: Is there a
25 second.

26
27 MR. BUNCH: Second.

28
29 ACTING CHAIR GOTTLIEB: Board
30 deliberation.

31
32 MR. BUNCH: Madame Chair, I reflect Mr.
33 Edwards' feelings on that. We've heard a lot of
34 testimony here, but it seems like there isn't any
35 conclusive evidence that would lead me to favor the
36 motion, plus we have -- I usually give a lot of deference
37 to the RAC's proposal, but seeing we have conflicting
38 opinions here, I just don't think that the data carries,
39 plus the fact that we have a tool to use in case the
40 motion doesn't carry. So that would be my opinion of it.
41 It just doesn't seem to have enough definitive
42 information there for me to make a recommendation in
43 favor.

44
45 ACTING CHAIR GOTTLIEB: Well, I would
46 comment that as was stated in some of the write-ups that
47 if the purpose of the proposal was to get this issue,
48 whatever exactly it might be, but over-all issue and
49 concern on size and population numbers and proportion of
50 those in front of the Board, that has certainly been

1 successful. And I believe that again the solution was
2 put up there, this may not be -- this is not the solution
3 at this point in time, but it may be amongst some of the
4 possible solutions discussed in the future.

5
6 All those in favor, please say by --
7 signify by saying aye.

8
9 IN UNISON: Aye.

10
11 ACTING CHAIR GOTTLIEB: All those opposed
12 same sign.

13
14 (No opposing votes)

15
16 ACTING CHAIR GOTTLIEB: Motion carries.

17
18 MR. EDWARDS: Madame Chairman, I just
19 hope that, you know, our -- somewhere in our decision
20 it's reflected that our commitment that we're going to
21 continue to be -- to keep this on -- this issue on the
22 forefront and look for solutions and processes to help us
23 try to ultimately bring it to resolution.

24
25 ACTING CHAIR GOTTLIEB: I appreciate that comment
26 and hope the whole Board endorses that. And so we'll
27 look to Office of Subsistence Management, Tom and other
28 staff from the agencies to start working right away with
29 the RAC'teers (ph), the State and others who need to be
30 involved, develop a process that's going to provide for
31 good communication and information exchange. And we
32 appreciate those volunteers we got today from this
33 discussion.

34
35 It's 10:15. If we'll come back at 10:25,
36 please. And thank you, everybody.

37
38 (Off record)

39
40 (On record)

41
42 ACTING CHAIR GOTTLIEB: Okay. We're
43 going to start with Proposal 20.

44
45 UNIDENTIFIED VOICE: Pound the gavel.

46
47 ACTING CHAIR GOTTLIEB: Right.

48
49 UNIDENTIFIED VOICE: 21.

50

1 ACTING CHAIR GOTTLIEB: Let's see.
2 Excuse me, we're starting with 20/21. We're making this
3 slight change to accommodate Staff who need to be present
4 at this discussion. We also had a couple requests for
5 general public testimony, which we will try to
6 accommodate before lunch time. But for Proposal 20/21,
7 go ahead, Jerry. Thank you.
8
9 MR. BERG: Thank you, Madame Chair. For
10 the record, my name is Jerry Berg. I'm a fishery
11 biologist with the Fish and Wildlife Service.
12
13 Proposal 20 and 21 were analyzed together
14 and the analysis begins on Page 302 in your book. These
15 two proposals were submitted by the AHTNA Subsistence
16 Committee, and were analyzed together since they request
17 similar regulatory changes. The proponent has suggested
18 that no action -- has since requested that no action be
19 taken on Proposal 20.
20
21 Proposal 21 requests that fish wheels in
22 the upper Copper River district be checked and all fish
23 removed at least once every 24 hours. The proponent is
24 concerned that too many fish caught in fish wheels are
25 not being used and may be wasted by people who do not
26 check their fish wheel regularly.
27
28 A similar proposal was also submitted to
29 the Board of Fisheries, and they took action just last
30 month to require that fish wheels be checked every 10
31 hours and all fish removed. There's also a statewide
32 Federal regulation which prohibits the wasting of
33 subsistence-caught fish, which is related to this issue.
34
35 The AHTNA subsistence committee submitted
36 additional comments requesting that Proposal 21 be
37 modified to require fish wheels be checked at least every
38 8 hours instead of every 24 hours and all fish removed.
39
40 Federal regulations for the upper Copper
41 River District require users to have a subsistence
42 fishing permit and allow the use of a fish wheel, dip net
43 and rod and reel for the take of salmon.
44
45 Overall, salmon escapements in the Copper
46 River have been above average for the past five years,
47 and there's no conservation concerns for salmon at this
48 time.
49
50 There are a couple of tables in the

1 analysis that summarize the subsistence salmon harvest by
2 fish wheel users with a State or Federal permit over the
3 past few years. And you can see that the majority of the
4 subsistence salmon harvest continues to occur under
5 State-issued permits for the upper Copper River district.
6

7 Adopting this proposal would create a
8 distance in Federal and State regulations for fish wheel
9 operators in the upper Copper River district since the
10 Alaska Board of Fisheries recent established the
11 regulation to -- that the fish wheels be checked every 10
12 hours.
13

14 It does take a tremendous amount of
15 effort to be able to deploy and operate a fish wheel.
16 Subsistence users in the upper Copper River district
17 check their fish wheels regularly to ensure that their
18 fish are processed while they are fresh. A regulation to
19 require that fish wheels be checked on a regular basis
20 would align with traditional practices, and could also
21 help law enforcement officers to reduce potential wanton
22 waste of fish caught in fish wheels.
23

24 There was also some compelling
25 information presented during the Southcentral Regional
26 Council meeting in Kenai describing how some subsistence
27 users in the upper Copper River district have longer boat
28 rides to get to their fish wheel, and that it can
29 sometimes be 36 to even 48 hours between checks depending
30 on the strength of the run at the time. There was also a
31 description of how some fish wheel operators attach a
32 hose to their fish wheel and rig it up so that it's
33 constantly splashing cold river water up over their fish
34 box to help keep their fish in good condition for longer
35 periods of time.
36

37 The primary intent of this regulation is
38 to reduce the potential waste of salmon, which also needs
39 to be balanced with the practices of subsistence users so
40 as not to unduly require them to change their pattern of
41 use due to the potentially wasteful practices of a few.
42 Adopting some level of periodic fish checks into
43 regulation would align with current subsistence
44 practices, and would provide law enforcement officers
45 with a better tool to help reduce potential waste of
46 fish.
47

48 It would be best if Federal and State
49 regulations could remain the same or be aligned.
50 However, adopting a regulation to require that fish

1 wheels be checked every 10 hours may be detrimental to
2 some users who traditionally check their wheels less
3 often. A more liberal time limitation, such as 48 hours
4 would allow for additional time to help provide more time
5 for those who have longer boat trips. However this would
6 create a divergence with State regulations, and so there
7 would be -- there would need to be a mechanism in place
8 to clearly identify a Federal permit user versus someone
9 using a State-issued permit. If a different time
10 limitation is adopted by the Board, then it would also be
11 advised that we also consider requiring that Federal
12 users display the letter F on the name plate that's
13 currently required to display their name and address.
14

15 And, Madame Chair, that's all I have.
16 I'd be happy to try to answer any questions. Thank you.
17

18 ACTING CHAIR GOTTLIEB: Thank you.
19 Questions for Jerry.
20

21 (No comments)
22

23 ACTING CHAIR GOTTLIEB: Are there any
24 written public comments.
25

26 MR. MIKE: Madame Chair, this is Donald
27 Mike, Southcentral Regional Subsistence Council
28 coordinator.
29

30 The AHTNA Subsistence Committee supports
31 that the Federal Subsistence Board take no action on
32 Proposal No. 20. After review of this proposal, we do
33 not support Federally-qualified subsistence users being
34 required to have a live box on their fish wheels. This
35 would only add one more regulation that we would have to
36 comply with that isn't necessary, since most of us check
37 our fish wheels often during the day and night.
38

39 On Fisheries Proposal 06-21, we support
40 Proposal 21 with modification to require that fish wheels
41 be checked at least every eight hours and all fish be
42 removed.
43

44 Thank you, Madame Chair.
45

46 ACTING CHAIR GOTTLIEB: Donald, I'm
47 sorry. It was really hard to hear the first part of your
48 comments, so could you just do it one more time, please?
49

50 Thank you.

1 MR. MIKE: Madame Chair, on Proposal
2 Number FP06-20, AHTNA Subsistence Committee requested
3 that the Federal Subsistence Board take no action on
4 Proposal 20. After review of this proposal, we do not
5 support Federally-qualified subsistence users being
6 required to have a live box on their fish wheels. This
7 would only add one more regulation that we would have to
8 comply with that isn't necessary, since most of us check
9 our fish wheels often during the day and night.
10
11 ACTING CHAIR GOTTLIEB: Thanks very much.
12 Public comments on this proposal.
13
14 UNIDENTIFIED VOICE: Roy.
15
16 ACTING CHAIR GOTTLIEB: Oh, Roy Tansy,
17 please.
18
19 MR. TANSY: Thank you, Madame Chair.
20 Board members.
21
22 Representing the Cantwell -- I mean the
23 AHTNA Region, my name is Roy Tansy. And AHTNA Region
24 well as all of the people up in the Copper River felt,
25 you know, that eight hours, you know, was relevant, you
26 know, and what the State regulation Board adopted, 10
27 hours, you know, is pretty much in line with our concern,
28 pretty close to it. So we support the Alaska Board of
29 Game (sic) adoption. Thank you.
30
31 ACTING CHAIR GOTTLIEB: Thank you. Any
32 questions.
33
34 (No comments)
35
36 ACTING CHAIR GOTTLIEB: Well, please give
37 my regards to your son, Roy. We worked together.
38
39 MR. TANSY: Thank you.
40
41 ACTING CHAIR GOTTLIEB: And Roy Ewan, if
42 you're here. Thank you.
43
44 MR. EWAN: Thank you, Madame Chair and
45 Board members. It's good to see many of you again, both
46 Staff and other advisory committee members.
47
48 For those of you that don't know me, I'm
49 Roy Ewan from Copper River area. I served on the
50 Southcentral Council, on the Regional Council for a

1 number of years. I chaired the Southcentral Council I
2 believe just for about six years. And so I understand
3 the enormous responsibility many of you have in dealing
4 with some of these regulations and trying to do right by
5 the subsistence users and other users.

6
7 This particular one that I'm commenting
8 on, this particular proposal, I don't think is that
9 enormous a decision, but still important. I think we --
10 the State of Alaska -- you all realize the State of
11 Alaska at their last meeting passed a proposal that will
12 allow the permit holders to check every 10 hours. I
13 support that idea, that proposal, because I believe that
14 they were very -- I guess proposals, there were some
15 people that wanted more checks, say even I even heard
16 four hours, and some longer periods.

17
18 And my reasoning for supporting a 10-hour
19 check was that it's more traditional. You know, you have
20 to sleep and work. Nowadays a lot of people work and
21 usually working period is eight hours, and that allows
22 time for a person that works to have time to go check the
23 fish wheel after they get off work. And if you sleep,
24 it's normally about eight hours sleep. That -- for a
25 person my age, that allows me to get to my fish wheel.
26 It gives me an hour or two hours to get to the fish wheel
27 after eight hours sleep. That's the reasoning, and I
28 supported that.

29
30 I believe that traditionally the AHTNA
31 people, and I suppose all the other native people
32 throughout the State of Alaska and other people, that
33 fish subsistence check their fish wheel after they woke
34 up after approximately eight hours sleep, and then as
35 many times as necessary during the day. It's just
36 something that we grew up believing that you do not waste
37 fish. You do not let fish get spoiled or sunburned. And
38 during the day I recall when I was young, our parents
39 made us go down and check the fish wheel, take the fish
40 out, put it into the bank in what we call the fish hole
41 for, you know, processing the salmon to dry later on.
42 Just continually doing that all summer long.

43
44 I think we should remember that, the
45 native people basically were against wanton waste, and
46 that's basically what this proposal is trying to
47 accomplish I believe. Our people want to not have it
48 checked say every 24 hours or every 48 hours. I believe
49 the majority of our people want it checked more often to
50 avoid wanton waste.

1 I think I spoke long enough on this.
2 Thank you very much. I appreciate it.
3
4 ACTING CHAIR GOTTLIEB: Thank you, Roy.
5 I guess if the regulation said every 24 hours or 48
6 hours, would you still go out every 8 or 10 hours to
7 check your wheel?
8
9 MR. EWAN: Say that again?
10
11 ACTING CHAIR GOTTLIEB: If the regulation
12 said you have to check your wheel every 24 hours or even
13 48 hours, would you still go out and check your wheel as
14 you have all along?
15
16 MR. EWAN: I certainly would. Just like
17 I said, I personally check my fish wheel the very first
18 thing I get up. I go down -- not wanting the fish to
19 spoil, I go down and take the fish out, bring it home and
20 do whatever I have to do with it to process it for either
21 drying or freezing. And I believe the majority of our
22 people do that. And during the day they continually
23 check it. My fish wheel is approximately six miles from
24 where I live. I could drive to it, it gives me, oh,
25 about an hour to do all that, go to my fish wheel and
26 back.
27
28 CHAIRMAN DEMIENTIEFF: Thank you. Any
29 questions or comments.
30
31 (No comments)
32
33 ACTING CHAIR GOTTLIEB: Thank you for
34 testifying. And Gloria Stickwan.
35
36 MS. STICKWAN: My name is Gloria
37 Stickwan, here to talk about Proposal 21.
38
39 You've already heard all the comments as
40 to why we wrote this proposal. It was mainly for wanton
41 waste.
42
43 When we were at the Board of Fisheries
44 meeting, we talked to them about 10 hours and we agreed
45 that 10 hours would be an ideal number for -- to have our
46 fish removed and have that put into the regulations.
47
48 I know that a person on the SRAC said 48
49 hours, and that person has his fish wheel across the
50 Copper River, and he has to drive -- ride -- take a boat

1 up there. I think there's maybe -- Fish and Game could
2 probably say this better than I could, but I think
3 there's like probably just two maybe fish wheels that are
4 across the river, and it would take 48 hours to get
5 there.

6
7 The majority of people who have fish
8 wheels, they have access to their fish wheel. They can
9 drive there. But there's not very many people that would
10 need 48 hours to get to their fish wheels, so I would
11 agree 10 hours is a good number for the number of hours.

12
13 If you have any questions, I'll answer
14 them.

15
16 ACTING CHAIR GOTTLIEB: Thank you,
17 Gloria. Any questions.

18
19 (No comments)

20
21 ACTING CHAIR GOTTLIEB: Thanks very much
22 for being here today. Nick Jackson. Or Daniel Stevens.

23
24
25 MR. STEVENS: Thank you. To introduce
26 myself, I'm Dan Stevens. I'm from Chitina itself. I
27 live there. I was born and raised on the river, or in
28 the Copper Valley, or Copper River area, and I was
29 employed in 1990 to do the Chit -- to work with the
30 Chitina dip netting region. And I've been working every
31 since in that area.

32
33 I do concur with everyone from AHTNA that
34 at least 10 hours would be -- or 10 hours would be
35 appropriate to be checking the wheels. When I was
36 raised, my grandfather used to tell me that if you can't
37 check your wheel every day, twice or three times, you're
38 too busy to do that, shut the wheel off until you're
39 capable of being there to watch the wheel continually.
40 So if it takes 48 hours to get to your fish wheel, it's
41 time to put a tent up I think.

42
43 Thank you. And I concur with -- I do
44 concur with the AHTNA people that it should be 10 hours
45 at least.

46
47 ACTING CHAIR GOTTLIEB: Thank you. Any
48 questions.

49
50 (No comments)

1 ACTING CHAIR GOTTLIEB: Well, thanks for
2 taking the time to be here today. We'll continue, but if
3 Nick comes in later, I know we're doing this out of
4 order, so we'll provide him the opportunity to testify if
5 we're still discussing the issue, so if someone will let
6 us know if he's here, that would be great. Thank you.
7 Thanks for.....
8
9 MR. STEVENS: Thank you for your time.
10
11 ACTING CHAIR GOTTLIEB: Regional Council
12 recommendation.
13
14 MR. LOHSE: Thank you, Judy. The
15 Regional Council supported this with modification, and we
16 supported it with the modification to require that fish
17 wheels in the upper Copper River be checked at least once
18 every 48 hours and all fish removed.
19
20 A little information on that. As Gloria
21 alluded to, we recognized that we need a check on the
22 fish wheels. And we had no disagreement at all with the
23 fact that we need to have a time-based check. We did
24 have one member of the Council who as Gloria said uses a
25 boat to check his fish wheel, and has his fish wheel set
26 up in a different way than most of the rest of the people
27 have, who basically said that he needed 48 hours. And
28 that's why we came up with the 48 hours. We were trying
29 to accommodate everybody.
30
31 But I did not realize until their
32 testimony that there were so few people that used boats
33 and went to the other side of the Copper River. And we
34 also did not at that time have the Board of Fish's
35 decision on it. I think that would have made a big
36 effect on our discussion.
37
38 And so I'll just leave it at the fact
39 that we recognized and we support, definitely support, a
40 time limit on how long it should be to checking the fish
41 wheels. And I'll leave the rest up to you.
42
43 ACTING CHAIR GOTTLIEB: Thank you. Any
44 other Councils or questions for Ralph.
45
46 MR. OVIATT: Madame Chair.
47
48 ACTING CHAIR GOTTLIEB: George.
49
50 MR. OVIATT: Madame Chair. Mr. Lohse,

1 what do you think is a reasonable amount of time to check
2 the fish wheels?

3

4 MR. LOHSE: Now you're asking me this as
5 a personal and not as the Council representative, right?

6

7 MR. OVIATT: That is correct.

8

9 MR. LOHSE: I think AHTNA has picked a
10 very good time. It allows people who have a regular job
11 -- and in this day and age, people do -- a lot of people
12 do have to have a regular job to live in the Copper River
13 Valley. But it allows them to go check their fish wheels
14 after work. For those who have -- for those who aren't
15 working at that time, and who's running their fish wheel
16 as their most important thing, I agree with Roy. Most of
17 those people that I know check their fish wheel a lot
18 oftener than every 10 hours. And traditionally it is
19 true, you camped by your fish wheel. And so I think that
20 -- I think 10 hours is actually even stretching the
21 traditional way of doing it, and so I think 10 hours is a
22 very applicable regulation. And the fact that the Board
23 went through all of the hearings, they obviously thought
24 so, too.

25

26 MR. OVIATT: Thank you.

27

28 ACTING CHAIR GOTTLIEB: I was wondering
29 if the RAC member that you're referring to either has
30 alternate sites that might be more accessible, or has the
31 option of pitching the tent I guess.

32

33 MR. LOHSE: The RAC member you're
34 referring to is a good friend of mine. I would think
35 that he has access to alternative sites, but he has
36 chosen to have that site simply because there's no
37 competition there, and he has the ability to get to it.
38 I'm kind of in agreement with the last speaker, that what
39 he should probably do is he should do it when he's not
40 working, and he should operate his fish wheel when he's
41 operating his fish wheel, and when he's not operating his
42 fish wheel, he should turn it off. And that's my own
43 personal opinion, and I've told him that. But.....

44

45 UNIDENTIFIED VOICE: He was your friend.

46

47 MR. LOHSE: And he's still my friend.

48

49 ACTING CHAIR GOTTLIEB: Well, we want to
50 keep you in the clear here. Thank you. Interagen -- and

1 other questions.

2

3 MR. BUNCH: Ralph, as I understand it,
4 this proposal is just for the Copper River area?

5

6 MR. LOHSE: This proposal is for Federal
7 subsistence permits for fish wheels on the Copper River,
8 upper Copper River. This doesn't apply -- well, I think
9 it does apply to the lower -- to the Chitina subdistrict,
10 because Federal fish wheel permits are available for the
11 Chitina subdistrict also.

12

13 MR. BUNCH: Thank you.

14

15 ACTING CHAIR GOTTLIEB: Can I just
16 clarify. I believe it's the upper Copper River
17 subdistrict. Jerry.

18

19 MR. BERG: Yes, it will encompass the
20 upper Copper River district, which includes the Chitina
21 subdistrict.

22

23 ACTING CHAIR GOTTLIEB: Other questions
24 or comments.

25

26 (No comments)

27

28 ACTING CHAIR GOTTLIEB: Interagency Staff
29 Committee, please.

30

31 MR. PROBASCO: Staff Committee, Madame
32 Chair. Okay. I'd also like to point out I guess Andy's
33 not here, is that the Eastern Interior did not support
34 the original proposal as well. That's in the book.

35

36 Madame Chair. The Interagency Staff
37 Committee recommendation is to support with modification.
38 I think it's important to point out that when the Staff
39 Committee deliberated on this proposal, we, too, did not
40 have the action before us taken by the Board of Fish.
41 The recommendation is to be consistent with the
42 recommendation of the Southcentral Alaska Regional
43 Advisory Council, but contrary to the recommendation from
44 the Eastern Interior.

45

46 We recommended to require that fish wheel
47 operators in the upper Copper River district check their
48 fish wheels at least every 48 hours and remove all fish.

49

50 Madame Chair.

1 ACTING CHAIR GOTTLIEB: Thank you. Any
2 questions or comments.

3
4 (No comments)

5
6 ACTING CHAIR GOTTLIEB: We'll go to
7 Department of Fish and Game, please.

8
9 MR. TAUBE: Thank you, Madame Chair. For
10 the record my name is Tom Taube. I'm the area fisheries
11 biologist for the upper Copper River.

12
13 As mentioned previously here, the Alaska
14 Board of Fisheries adopted a regulation December of 2005
15 that requires fish wheels in the upper Copper River
16 district to be checked at least once every 20 -- once
17 ever 10 hours and all fish removed. This practical
18 solution was developed after extensive public involvement
19 that carefully considered the requests of Federally-
20 qualified subsistence users who participated during
21 meeting testimony and committee work.

22
23 To provide for consistency between the
24 State and Federal regulations, Federal Subsistence Board
25 action should align the State and Federal regulations
26 which should be accomplished by eliminating identical
27 Federal regulations.

28
29 Fish wheels do need to be monitored,
30 especially if there's no live box as requested by the
31 Board of Fish -- at the Board of Fisheries meeting.
32 However, if the Federal Subsistence Board approves an
33 interval of greater than 10 hours, and especially if this
34 interval approaches 48 hours without the additional
35 provision of a live box, there's a much greater
36 likelihood of fish becoming unusable over that long time
37 out of the water. In addition the State and Federal
38 regulations will be significantly inconsistent, and
39 enforcement will be compromised and potentially
40 unworkable.

41
42 At this point I'd also like to defer to
43 our enforcement liaison with the Department, Al Kane,
44 here and he will provide additional comments regarding
45 some of these enforcement issues.

46
47 ACTING CHAIR GOTTLIEB: Thank you. Go
48 ahead, please.

49
50 MR. KANE: Thank you, Madame Chairman.

1 My name is Al Kane. I am the enforcement, law
2 enforcement advisor for the Alaska Board of Fisheries,
3 and was very much involved when this 10-hour limit was
4 adopted by the Board in December in Valdez.

5
6 The very same individuals that you had
7 give testimony came before us, and a great deal of
8 discussion occurred. And the entire thing involved their
9 concerns over the waste of salmon, that some individuals
10 were not checking their fish wheels on a regular basis,
11 or starting the operation of the wheel and leaving the
12 area and hoping the next operator showed up in time, and
13 sometimes they didn't.

14
15 So we -- the discussion evolved around
16 how many hours that would workable, and my
17 recommendations were that, of course, the most
18 enforceable avenue is to have someone personally attend
19 the wheel at all times. That's the most enforceable
20 platform. If you go to four hours or eight hours or 10
21 hours, a law enforcement agent needs to observe the fish
22 wheel continuously for that period of time to make sure
23 it is not attended. And we felt that 10 hours was a
24 great step forward.

25
26 The Department of Public Safety and the
27 Department of Fish and Game both have received a number
28 of complaints over the years, and unless it could be
29 proven that the fish were actually wasted, it was
30 impossible to make a case or to prosecute an individual
31 even though the fish could be found sunburned laying on
32 the deck of the fish wheel for days until they actually
33 were thrown back in the river or wasted. It was
34 difficult to prosecute them.

35
36 The new tool the Board of Fisheries gave
37 was very valuable. And while, yes, it would take the
38 majority of a day and or night to observe the violation,
39 the waste of fish is a very, very important thing to the
40 local users, and we supported this wholeheartedly.

41
42 If the Board chooses to go with a 24 or a
43 48-hour limit for Federally-qualified users, the problem
44 with that is an individual has to stay awake all day and
45 night for 48 hours or however long it is. It -- 48 hour
46 in my opinion is virtually unenforceable. It would take
47 too much manpower, too much resources to observe a fish
48 wheel for that whole period of time, and then issue a
49 citation for violating this time limit. Ten hours is
50 much more workable, and I -- at the Board meeting in

1 December there was no contrary comments to this. The
2 entire working group agreed on the 10-hour limit.
3
4 So with that, that's what law enforcement
5 feels.
6
7 ACTING CHAIR GOTTLIEB: Thank you. That
8 was very helpful. Tom, do you have another comment?
9
10 MR. TAUBE: Madame Chair, just for our
11 recommendation, the Department does not support the
12 original proposal or the amended proposal. Thank you.
13
14 ACTING CHAIR GOTTLIEB: Thank you. Any
15 comments or questions.
16
17 MR. EDWARDS: Yeah, I have one question
18 for the State. Listening to the discussion, I guess I
19 somewhat gather there's really nothing totally magical
20 about the number 10 hours. It's no different maybe than
21 9 or 11 or 12. It was just a feeling that we needed
22 maybe a shorter period than a longer period, and maybe as
23 was addressed by one of the people from the public,
24 assuming a person works eight hours, that gives them an
25 hour before work and an hour after work in which they
26 could check their nets. But there's nothing -- any kind
27 of scientific basis or anything surrounding the 10 hours,
28 is there?
29
30 MR. KANE: Thank you, Madame Chairman.
31 Member Edwards. That's correct. I was much more excited
32 about four hours or not hours as an enforcement agent,
33 but the testimony did come up that many people did work
34 for eight hours during the day, and it seemed like a very
35 positive step forward to handling this waste problem to
36 allow 10 hours. So we agreed to that. The enforcement
37 officers in Valdez and Glennallen were very excited about
38 that 10-hour limit, because for the first time in history
39 a workable enforcement tool was given by the Board of
40 Fisheries. And the 10-hour limit, you're correct,
41 there's no scientific or any magic about that. It could
42 have been nine hours and 45 minutes or any other time,
43 but 10 hours was what the working group agreed with and
44 what the Board adopted.
45
46 Madame Chair.
47
48 ACTING CHAIR GOTTLIEB: Thanks very much.
49 That's good background to have also.
50

1 MR. LOHSE: Madame Chairman.
2
3 ACTING CHAIR GOTTLIEB:
4
5 MR. LOHSE: Could I ask the enforcement
6 agency a question?
7
8 ACTING CHAIR GOTTLIEB: Sure. Go ahead.
9
10 MR. LOHSE: Are you capable of using
11 video surveillance on something like that having it stand
12 up in court?
13
14 MR. KANE: Madame Chairman. Being a bit
15 reluctant to give away all of the enforcement methods
16 that may be used, the answer to that question is yes.
17 It's expensive and difficult and takes some equipment,
18 but there are methods even beyond that suggestion, but,
19 yes, they could be. When the time limit is 10 hours,
20 it's far more workable. If the time limit is 24 or 48 or
21 something, video equipment and other surveillance, time-
22 lapse photography, all sorts of methods, become much more
23 difficult.
24
25 MR. LOHSE: Thank you.
26
27 ACTING CHAIR GOTTLIEB: Kelly.
28
29 MR. HEPLER: Madame Chair, for the
30 Board's information and the audience, Al Kane spent 25
31 years with the Troopers, so we were very fortunate to
32 bring him over. He's been one of our better hires in
33 recent years. And so 25 years in the Troopers, you can
34 see why some of the -- you know, the law becomes a little
35 bit black and white at times, but, Al, we certainly
36 appreciate your comments. Thank you.
37
38 ACTING CHAIR GOTTLIEB: Thank you. I
39 think we're ready for Board discussion. Ralph.
40
41 MR. LOHSE: Madame Chair. I'd just like
42 to reiterate that the Council did recognize the need for
43 a time limit. And just for the sake of the Council, to
44 show that we weren't thinking off the wall, the person
45 who we are talking about probably has one of the more
46 better equipped fish wheels on the river. He has a live
47 a box, he has an escape hatch. He has a refrigeration --
48 or a water sprinkling system on it, and that's why we
49 were willing to listen to him. But he is an exception,
50 he is not the rule.

1 ACTING CHAIR GOTTLIEB: So in that
2 particular case, you weren't worried about a wanton waste
3 problem.

4
5 MR. LOHSE: We definitely weren't worried
6 about a wanton waste with him, but we realized that it
7 doesn't apply to everybody, and we recognized that some
8 kind of time limit needs set.

9
10 ACTING CHAIR GOTTLIEB: Thank you.

11
12 MR. EDWARDS: Madame Chairman, you know,
13 with this proposal and even the modification of the
14 proposals, once again I think we're heading down this
15 potential path where we'll potentially end up with a
16 situation where we'll have two fish wheels side by side,
17 one of them being able to fish for 48 hours without
18 checking, the other with 10. Every time we run into
19 these situations, it just seems to me that it's not
20 really good public policy.

21
22 I think we heard a lot here today that
23 would indicate that the process that the Board of Fish
24 went through was a very thorough process. Folks have
25 testified that they participated in that and seemed to be
26 very supportive of what that came up with. So, anyway,
27 that kind of leads me down to a path is to probably not
28 to accept either the proposal or the modified proposal,
29 but try to stay as much as we can in line with what seems
30 to have been a good process and come up with a solution
31 that the people who are using it, except for maybe the
32 one gentleman, seem to be very supportive of.

33
34 ACTING CHAIR GOTTLIEB: Charlie.

35
36 MR. BUNCH: Madame Chair. Yeah, you
37 know, it seems to me that an equitable enforcement across
38 the board would be one of the things that we were looking
39 for in this case. That keeps the decisions of the Board
40 at a respectable level. But is it possible when you have
41 individuals like that, could we do a case-by-case permit
42 that would allow certain individuals. Is that a
43 possibility?

44
45 ACTING CHAIR GOTTLIEB: Pete, if you can
46 help us on that.

47
48 MR. PROBASCO: Madame Chair. Mr. Bunch.
49 It is a possibility, but practicality-wise you would have
50 -- everybody could come and make that request for that

1 type of permit. And I think the need to be consistent
2 within our Federal users is very important.

3

4 Madame Chair.

5

6 ACTING CHAIR GOTTLIEB: Thank you. I
7 know as Eric Veach, our in-season manager who was here
8 yesterday, and I think Jerry mentioned this in his
9 report, if we decide we wanted different times, there are
10 requirements that in-season manager can put on the permit
11 to specifically designate the fish wheel as a Federal
12 one, so it would be much clearer.

13

14 But I believe we've heard information
15 that has much value to us, and information that the RAC
16 and the Interagency Staff Committee didn't have at the
17 time of making their recommendations. So if someone's
18 prepared to do a motion or if you want me to if you're
19 not prepared to do a motion, I can do that.

20

21 UNIDENTIFIED VOICE: Go ahead.

22

23 ACTING CHAIR GOTTLIEB: Well, I'd like to
24 modify the recommendation made by the Southcentral
25 Advisory Committee that would require -- excuse me, that
26 fish wheel operators to check their wheel every 10 hours
27 consistent with the concerns we've heard from AHTNA users
28 and consistent with the Board of Fish recent action which
29 evidently was a consensus decision amongst -- that was
30 derived amongst interested users.

31

32 MR. BUNCH: I second that.

33

34 ACTING CHAIR GOTTLIEB: Comments or
35 discussion.

36

37 MR. EDWARDS: Just one question for
38 clarification. My understanding is that currently there
39 is no hourly -- no restriction. Is that correct? No
40 hourly restriction and that did every 10 minutes or every
41 10 days.

42

43 MR. BERG: Yeah. Madame Chair. Member
44 Edwards, that's correct. There's currently no
45 requirement to check fish wheels on a periodic basis of
46 any sort.

47

48 ACTING CHAIR GOTTLIEB: George.

49

50 MR. OVIATT: Madame Chair. I'm going to

1 support your proposal. I think that we've heard
2 sufficient testimony that there is a need to establish
3 some time limit, and that there's probably alternatives
4 for the one individual. So I'm going to support your
5 motion.

6
7 ACTING CHAIR GOTTLIEB: Thank you. I
8 agree. Accommodating one person, particularly if they do
9 have other options to be there or perhaps fish somewhere
10 else makes it difficult.

11
12 MR. KANE: Thank you, Madame Chairman. I
13 just wanted to clarify, and perhaps I missed it. Your
14 modification was to move it to 10 hours and remove the
15 fish every 10 hours? That was an important element in
16 our discussions with the Board. Otherwise a person could
17 just come and check, look at the fish and not remove
18 them, and we would still have the same waste problem.

19
20 Madame Chairman.

21
22 ACTING CHAIR GOTTLIEB: Thank you. Just
23 a minute, please.

24
25 (Pause.)

26
27 ACTING CHAIR GOTTLIEB: Thank you. It's
28 checked and removed.

29
30 UNIDENTIFIED VOICE: Question.

31
32 ACTING CHAIR GOTTLIEB: A call for the
33 question. All those in favor signify by saying aye.

34
35 IN UNISON: Aye.

36
37 ACTING CHAIR GOTTLIEB: All those opposed
38 same sign.

39
40 (No opposing votes)

41
42 ACTING CHAIR GOTTLIEB: Motion carries
43 then.

44
45 Just for those who may not have heard it
46 yesterday, at 1:30 today we're going to be hearing
47 Proposal 9. We're going to be doing a little bit of
48 switching around because we'd like to have that one
49 discussed, and then we will move to No. 14, 15, which is
50 also relating to customary and traditional use. So what

1 we would like to try to do now is take up Proposal 18,
2 and we also have two requests for public testimony which
3 we'll hear as soon as we conclude Proposal 18. So for
4 those of you waiting for that public testimony, we'll do
5 that and break for lunch. So if we could have Staff
6 report on 18 whenever you're ready.

7
8 MR. BERG: Thank you, Madame Chair. I'll
9 be presenting the analysis or the presentation for
10 Proposal 18. It begins on Page 282 in your book.

11
12 Proposal 18 was submitted by the Copper
13 River/Prince William Sound Advisory Committee located in
14 Cordova, and requests that the Federal subsistence
15 fishing methods for salmon be restricted to spear, gaffs,
16 or rod and reel in Federal public waters of the Prince
17 William Sound area, except for the Copper River drainage.
18 This would essentially prohibit the use of dip nets for
19 harvesting salmon in this area.

20
21 There are no specific Federal subsistence
22 fishing regulations for the Prince William Sound area
23 except for the upper Copper River district, and so this
24 area falls under the general provisions section of our
25 regulations. And so this leaves methods and means and
26 seasons and harvest limits very liberal, which is why a
27 meeting was held in Cordova in November of 2004 with the
28 various agencies and stakeholders involved to try and
29 establish provisions for the Federal permit required in
30 that area.

31
32 As a result of that meeting, the methods
33 currently allowed for the take of salmon on the Federal
34 permit are dip nets, spears, gaffs, and rod and reel.
35 The proponent does not want a new dip net -- or a new
36 fishery using dip nets to be established in this area.

37
38 The Federal permit for the Prince William
39 Sound area primarily within the Chugach National Forest
40 allows for year around harvest of salmon, except for in
41 Eyak Lake and its tributaries which are closed to fishing
42 for salmon. The permit must be in the user's possession
43 while fishing, and all fish must be recorded on the
44 permit prior to leaving the fishing site.

45
46 There are also Federal and State
47 subsistence fishing regulations that allow for the take
48 of pink salmon with a dip net in many freshwaters of most
49 islands and some mainland waters in Prince William Sound
50 with no harvest or possession limits.

1 There are cultural ethnographies for the
2 region that document a long history of using dip nets to
3 harvest salmon by some residents of the Prince William
4 Sound area.

5
6 If adopted, the proposed regulatory
7 change would restrict Federally-qualified users from
8 using -- or from harvesting salmon using a dip net in the
9 effected area. Dip nets are a traditional gear type for
10 some people to harvest salmon, and are an alternative
11 available to qualified users who lack access to a boat or
12 other permitted gear types.

13
14 Also, dip nets can serve as an important
15 tool for managing salmon stocks since the unwanted fish
16 can easily be returned to the water unharmed.

17
18 The harvest reports for the 46 Federal
19 permits that were issued this year do not indicate that
20 there -- or do indicate that there was an interest in
21 using dip nets, as there was 9 of the 21 people who
22 fished with Federal permits this year used a dip net to
23 target sockeye salmon.

24
25 There's also plans to have another
26 meeting in Cordova the winter with all interested users
27 and agency personnel to discuss the permit provisions for
28 the 2006 season. This meeting would help to involve
29 local users in deciding the appropriate provisions that
30 are needed to protect the resource and help meet
31 subsistence user needs in that area.

32
33 So that concludes my presentation, Madame
34 Chair. I would be happy to try to answer any questions.

35
36 ACTING CHAIR GOTTLIEB: Thank you. Do we
37 have any questions for Jerry.

38
39 (No comments)

40
41 ACTING CHAIR GOTTLIEB: Thanks. Written
42 public comments, Donald.

43
44 MR. MIKE: Thank you, Madame Chair.
45 There's one written public comment received from the
46 AHTNA Subsistence Committee supporting FP06-18 to allow
47 only spears, gaffs and rod and reel to harvest salmon in
48 all waters of Prince William Sound south of Haley.

49
50 Thank you, Madame Chair.

1 ACTING CHAIR GOTTLIEB: Thank you. At
2 this point we don't have any request for public
3 testimony, so we can go to Regional Council
4 recommendation.
5

6 MR. LOHSE: Thank you, Madame Chair. As
7 you can see, the Southcentral Regional Advisory Council
8 supported this with modification. One of the things we
9 recognized right off the bat was that it was too broad.
10 It covered all of Prince William Sound, and that it
11 included the pink salmon dip net fishery in the Sound and
12 that. And so we decided to narrow it down to what the
13 Copper River/Prince William Sound Fish and Game Advisory
14 Committee was really trying to address, which were the
15 two main streams near town that get the most pressure,
16 and that was Alaganik and Eyak.
17

18 And so we supported with modification to
19 allow spears, gaffs, rod and reel to harvest salmon in
20 the Alaganik and Eyak Rivers and their tributaries, which
21 limits the scope of this proposal by quite a bit.
22

23 I was reading through the testimony, and
24 I'll just say as -- or through the Staff analysis, and
25 I'll just say as a personal aside to this, that we did
26 have testimony by the Village of Eyak that it would be
27 good to discuss this issue in a wider group of people in
28 Cordova again this winter. And knowing Cordova and
29 knowing how people work together, I think that they could
30 with no problem at all come to a consensus and agreement
31 on that. So whether this is necessary at this time or
32 not, I don't know, but as a Council we didn't want to
33 make it as broad as the original proposal. Thank you.
34

35 ACTING CHAIR GOTTLIEB: Thanks. That's
36 helpful. Questions for Ralph. Charlie.
37

38 MR. BUNCH: Ralph, where is Haley Creek?
39

40 MR. LOHSE: Haley Creek is straight down
41 from Woods Canyon. It's the division between the upper
42 Copper and the lower Copper. It's above Miles Lake and
43 Allen River and the Bremner River. Basically from Haley
44 Creek downstream to the Million Dollar Bridge not much
45 happens, because it's pretty inaccessible.
46

47 UNIDENTIFIED VOICE: 308's a map.
48

49 MR. LOHSE: Yeah, if you look on Page
50 308, there's a map there. That's on the mainstream of

1 the Copper. Most of what they're applying -- what
2 they're talking about here is not on the Copper. And
3 like Alaganik and Eyak are not ever tributaries of the
4 Copper. The Alaganik comes out of McKinley Lake, Eyak
5 comes out of the Eyak Lake, and they're not Copper River
6 fish.

7
8 ACTING CHAIR GOTTLIEB: Maybe a question
9 back to Jerry or Tim. Do we have any estimates on the
10 size of the runs on those two rivers?

11
12 MR. JOYCE: Madame Chair. The escapement
13 surveys are done through the Department of Fish and Game,
14 and they do aerial surveys on those systems. I don't
15 have those numbers here. I don't know if the Department
16 does. But they do aerial surveys.

17
18 ACTING CHAIR GOTTLIEB: Okay. Probably
19 not needed at this time then. Thank you. Other
20 questions.

21
22 MR. LOHSE: Madame Chair.

23
24 ACTING CHAIR GOTTLIEB: Sure.

25
26 MR. LOHSE: While I can't give you any
27 solid numbers on it, both of them have significant runs.
28 They're significant contributors both to the commercial
29 fishery and to the local sportfishery and subsistence
30 fishery. They're -- they both have runs of sockeye
31 salmon and coho salmon.

32
33 ACTING CHAIR GOTTLIEB: Interagency Staff
34 Committee. Pete.

35
36 MR. PROBASCO: Thank you, Madame Chair.
37 The Interagency Staff Committee opposes the proposal
38 contrary to the recommendation of the Southcentral Alaska
39 Regional Advisory Council.

40
41 The original proposal was to restrict the
42 harvest of salmon in all waters of Prince William Sound
43 except those of the Copper River drainage to allow only
44 spears, gaffs, and rod and reel. The Southcentral
45 Regional Advisory Council in their recommendation to
46 modify the proposal to recommend the change only apply to
47 Alaganik and Eyak Rivers and their tributaries near
48 Cordova.

49
50 The Interagency Staff Committee

1 recommends opposing the original proposal as well as the
2 Council's recommendation since both would eliminate the
3 use of dip nets and all other gear types except for rod
4 and reel, spears and gaffs. Eliminating the use of dip
5 net gear near Cordova would effectively eliminate the
6 harvest of sockeye salmon for subsistence by Federally-
7 qualified subsistence users in Federal public waters.
8 Not allowing the use of dipnets in Alaganik and Eyak
9 Rivers would be detrimental to the satisfaction of
10 subsistence needs by Federally-qualified subsistence
11 users in the Cordova area.

12

13 Madame Chair.

14

15 ACTING CHAIR GOTTLIEB: Thank you very
16 much. Charlie.

17

18 MR. BUNCH: Pete, do we have any history
19 of subsistence in those two rivers?

20

21 MR. PROBASCO: Yes, we do, and I would
22 refer to our fishery biologist that manages that area,
23 Tim Joyce. Tim.

24

25 MR. JOYCE: Madame Chair. The
26 subsistence use in the Prince William Sound area, and in
27 particular in the Copper River area, has traditionally
28 been done in marine waters under state permit, and with
29 the use of a drift gillnet. Since the subsistence
30 program started -- there has always been a sportfishery,
31 but, you know -- in the freshwaters, but since the
32 subsistence program started, we started issuing permits
33 last year, I had a total of 46 permits that we issued,
34 this being the first year in 2005. About half of those
35 were used, about half of them were not used. People got
36 them for whatever their reason.

37

38 And this permit allowed four methods for
39 harvesting salmon and three methods for freshwater fish
40 other than salmon. And as was presented here earlier, of
41 those permits that fished, about half of those used
42 dipnets. And primarily for harvesting sockeye salmon.

43

44 There has been historical use clear back
45 into the 1800s I believe where at Ambercrombie falls on
46 the Copper River where there's been some documented use
47 of dipnets. There has always been use of dipnets for
48 hooligan, for harvesting on the delta. And as far as rod
49 and reel goes, that's been, you know, something that's
50 been going on for probably since it's been invented.

1 I don't know if I answered your question,
2 but.....
3
4 MR. BUNCH: Yeah. And those permits were
5 for Prince William Sound or did they just cover the
6 freshwater?
7
8 MR. JOYCE: They were for freshwater in
9 the Prince William Sound area. We are only allowing our
10 subsistence uses -- we're only dealing with freshwater.
11 The marine waters are still regulated by the Department
12 of Fish and Game.
13
14 MR. BUNCH: Thank you.
15
16 ACTING CHAIR GOTTLIEB: I guess while we
17 have you, do you know the harvest from those permits?
18
19 MR. BERG: Yes, Tim did send that to me,
20 and it averaged about 11 salmon per permit. I don't -- I
21 do have the exact number here. By dipnet users, 100 --
22 or 93 sockeye and 12 coho were harvested by dipnets this
23 past summer.
24
25 ACTING CHAIR GOTTLIEB: Thank you. Okay.
26 Any other comments or questions.
27
28 MR. BSCHOR: Yes, a question for Tim. Is
29 there a Federal C&T finding for salmon in this area that
30 includes these two rivers?
31
32 MR. JOYCE: There is a Federal C&T
33 finding for salmon in the Prince William Sound area for
34 Cordova, Whittier, Chenega Bay and Tatitlek.
35
36 MR. BSCHOR: So would that finding only
37 allow those people covered in the C&T finding to harvest
38 salmon for subsistence in those river systems with a
39 Federal permit?
40
41 MR. JOYCE: Yes. If you are covered in
42 the C&T, it would only -- what that does, it allows those
43 people that have the C&T finding to fish those areas.
44 It's not a statewide finding. It's just for the area --
45 the people within that area.
46
47 I should include that for salmon it also
48 includes I believe the upriver folks as well for salmon.
49 I do not think there was a distinction made for salmon.
50 For trout, there is a proposal before you for trout that

1 is more restrictive and that is for just the Prince
2 William Sound area. But I believe salmon also includes
3 those folks up river. But it would allow just those
4 folks to fish in that area.

5
6 MR. BSCHOR: So a question for Mr. Lohse.
7 If there's such a little amount of use in those rivers
8 relative to the dipnets, what is the reasoning from the
9 Counsel again as to eliminating dipnet use? Excuse me.

10
11 MR. LOHSE: I don't think that originally
12 the idea was to eliminate dipnet use as it was to not to
13 allow it to get started. And part of it again probably
14 is the fact that it hadn't been done for a long time and
15 these are road accessible systems. Possibly it's not
16 understood that it's limited to Cordova, Chenega,
17 Tatitlek and Whittier. Cordova is getting more and more
18 accessible. These rivers have been getting lots and lots
19 of pressure from the sportfishing in the fall for silver
20 salmon, and we've had a little bit of a growing co -- a
21 little bit of a growing sockeye fishery taking place on
22 them. And I think that was just basically the idea
23 behind it was that it was trying to prevent another
24 dipnet fishery like on the Kenai from starting.

25
26 At this point in time, there hasn't been
27 any problem with the dipnet fishery. As you can see, the
28 take has been very small. That's about the only thing I
29 can give you on it that's.....

30
31 ACTING CHAIR GOTTLIEB: Other questions
32 or comments. George.

33
34 MR. OVIATT: Madame Chair. I don't know
35 who this question is to, but those people who are
36 subsisting, the 100 and some odd take with dipnet, would
37 they have an alternative for those fish or.....

38
39 ACTING CHAIR GOTTLIEB: Jerry.

40
41 MR. BERG: Yeah. Through the Chair,
42 yeah, I guess their alternative is to fish under State
43 regulations in marine waters, but that does require a
44 boat, that you have access to a boat and gear to fish in
45 marine waters. So this -- it is an alternative I guess
46 to folks who don't have a boat or access to the gear,
47 drift -- gillnetting gear.

48
49 ACTING CHAIR GOTTLIEB: Other -- Ralph.

50

1 MR. LOHSE: Madame Chair. If you look at
2 your page on Page 288, and you look at the number of
3 people who got permits and how they took their
4 subsistence fish, you see that there is an alternative.
5 A lot of the people who got subsistence permits chose to
6 get their subsistence fish a different way than dip nets.
7 And the people of Cordova area fairly resourceful. If
8 there's fish to be gotten, they'll figure out how to get
9 the fish. And I don't think it's a case of somebody's
10 going to go hungry because they don't use the dipnets,
11 but I'm not saying we shouldn't have the dipnets either.
12 I'm just saying that that's how the Council reacted to
13 this. But you'll see that there were a number of
14 subsistence permits given out, and the majority of them
15 chose not to use dipnets, and they still took their --
16 they still took actually the same amount of fish per
17 subsistence permit, or maybe even a few more.

18
19 ACTING CHAIR GOTTLIEB: Okay. Department
20 comments please.

21
22 MS. SEE: Thank you, Madame Chair. For
23 the record my name is Marianne See with the Department of
24 Fish and Game.

25
26 This proposal would prohibit the use of
27 dipnets for subsistence in the affected area. We
28 consider that if a local subsistence need has been
29 identified and a means of harvest has been documented, as
30 well as being a harvestable surplus that's available,
31 then we don't see a reason to restrict that gear type in
32 a Federal subsistence fishery.

33
34 Dipnets may be a preferred method,
35 because they're easily identifiable from State
36 sportfishing gear. They allow economical and efficient
37 harvest of fish, and they allow for quick and easy
38 release of nontarget species. Therefore the State
39 believes that dipnets should not be prohibited.

40
41 Our recommendation is to support the
42 proposal with a modification to add dipnets.

43
44 We also want to correct a point that was
45 just made on the record, and I'll defer to Matt Miller,
46 our area staff from that area.

47
48 MR. MILLER: Madame Chair. For the
49 record my name is Matt Miller. I'm the sportfish area
50 management biologist for Prince William Sound, North Gulf

1 Coast and Anchorage.

2

3 The point came up about alternative
4 methods for obtaining the subsistence fish. As was
5 mentioned, it's our belief that subsistence needs have
6 been met in the salt water under the State methods. And
7 additionally Federally-qualified subsistence users can
8 continue to harvest, if this doesn't go through by the
9 Board, by means of hook and line, spear and gaff in these
10 same waters. So I believe there are other ways if this
11 doesn't go.

12

13 ACTING CHAIR GOTTLIEB: Thank you for
14 that clarification. Any questions or comments for the
15 Department.

16

17 (No comments)

18

19 ACTING CHAIR GOTTLIEB: Ready for Board
20 discussion. One of the things I'm hearing is that maybe
21 we're getting to a recurring theme of perhaps more
22 communication, and I know there's been mention of a
23 meeting to be held amongst users and concerned parties in
24 Cordova, but I guess I wasn't exactly clear who would be
25 calling that meeting. So maybe, Tim, I can look to you
26 for that question.

27

28 MR. JOYCE: Madame Chair. What we would
29 do is advertise for a meeting for within the area to be
30 in Cordova to discuss potential permit stipulations for
31 this coming year. That would include, you know, those
32 options that we have available to us as far as, you know,
33 what we could do for gear, what we could do for harvest
34 limits, et cetera. And it would be advertised locally as
35 well as any -- around the Sound and upriver for anyone to
36 come and participate in that meeting. And I would take
37 whatever information that I would get, input from that
38 meeting and then we would discuss that and determine if
39 there was anything that would be appropriate for permit
40 stipulations.

41

42 ACTING CHAIR GOTTLIEB: Well, that sounds
43 like a good plan. I assume the Fish and Game local
44 biologist would be included as well.

45

46 MR. JOYCE: Yes, that's correct, they
47 would be.

48

49 ACTING CHAIR GOTTLIEB: Thank you.
50 Denny.

1 MR. BSCHOR: Just adding to that, I
2 wonder what problem we're trying to solve here if that's
3 working. And if that is workable, and it's also workable
4 with a solution with the community, we could continue to
5 work on those ends without having to put anything in
6 regulation here. Anything further.
7
8 ACTING CHAIR GOTTLIEB: Are we ready for
9 a motion then?
10
11 MR. BSCHOR: I'm prepared to make a
12 motion, and I'll rationale following the -- following the
13 second.
14
15 With what I just said, I move to reject
16 the recommendation of Southcentral Regional Advisory
17 Council and oppose both the original proposal as well as
18 the Council modification.
19
20 ACTING CHAIR GOTTLIEB: We have a motion.
21 Is there a second?
22
23 MR. SIMMONS: I'll second.
24
25 ACTING CHAIR GOTTLIEB: Thank you. Board
26 deliberation.
27
28 MR. BSCHOR: Well, let me give my
29 rationale and get this on the record.
30
31 ACTING CHAIR GOTTLIEB: Thank you.
32
33 MR. BSCHOR: Eliminating the use of the
34 dipnet gear near Cordova would effectively eliminate the
35 harvest of sockeye salmon for the subsistence by -- for
36 subsistence by Federally-qualified subsistence users in
37 Federal public waters. Harvesting sockeye salmon by rod
38 and reel is relatively ineffective and inefficient since
39 snagging is not a legal means when using rod and reel.
40
41 Spears and gaffs are only effective in
42 clear, shallow water. Both of the river systems we've
43 been discussing are clear, but they are wide and of deep
44 channels. Even dipnets are marginally effective in the
45 clear water of these rivers. However, the use of a dip
46 net in freshwater does provide a means for those
47 Federally-qualified subsistence users to satisfy some of
48 their subsistence needs if they do not have a boat
49 capable of navigating in marine waters off the Copper
50 River delta. Plus dipnetting was the most successful

1 subsistence fishing method in these rivers this last
2 year, which was the first year that Federal permits were
3 issued.

4
5 Dipnets have historically been used in
6 the Copper River delta. Not allowing the use of dipnets
7 in the two river systems would be detrimental to
8 satisfaction of subsistence needs by Federally-qualified
9 subsistence users in the Cordova area.

10
11 ACTING CHAIR GOTTLIEB: Thank you. Other
12 comments, discussion. Charlie.

13
14 MR. BUNCH: Is that just limited to the
15 Cordova area, or is it the whole Prince William Sound?

16
17 MR. BSCHOR: I'll defer to Tim Joyce on
18 that one. Or to Jerry.

19
20 MR. JOYCE: Madame Chair. The proposal,
21 the original proposal was for all of Prince William
22 Sound, but the modified proposal that came in from the
23 Southcentral RAC was just to allow three gear types,
24 which did not include dipnets, in two rivers around
25 Cordova, the Alaganik and the Eyak.

26
27 And the Copper -- I should point out,
28 too, that the Copper River and all its tributaries below
29 Haley Creek are closed to subsistence fishing for salmon.
30 And so any gear type is not allowed within the Copper
31 River or its tributaries for subsistence fishing for
32 salmon. That's by regulation.

33
34 MR. BUNCH: That's below Haley Creek?

35
36 MR. JOYCE: That's correct, below Haley
37 Creek.

38
39 MR. BUNCH: Okay.

40
41 ACTING CHAIR GOTTLIEB: So my
42 understanding is if we reject this proposal, we revert to
43 the current regulation?

44
45 MR. BERG: Yes, Madame Chair, that would
46 be correct, which does require a permit, and so we've
47 reverted to the provisions provided on the permit. And I
48 think it does allow some flexibility to have this meeting
49 this winter and try to work out some solutions in the
50 community there. And then I guess if problems do

1 surface, then maybe a proposal could be submitted again
2 next year.

3
4 Madame Chair.

5
6 ACTING CHAIR GOTTLIEB: Thank you. So
7 perhaps to use our Chairman's terms, this might be a work
8 in progress, and we might see something different or the
9 same next year, but at least we'll have more community
10 discussion and hopefully buy-in. Yes.

11
12 MR. LITTLEFIELD: I have a question for
13 Staff I believe. I just heard him say that there's no
14 subsistence fishing in the Copper River, and I'm
15 wondering where that regulation came from. Did the Board
16 adopt that or is that a state carry-over, or why can't
17 you subsistence fish in the Copper River? Just curious.

18
19 MR. BERG: I'm fairly sure that the lower
20 Copper River has been closed since statehood, but we --
21 there was kind of an administrative change that was made
22 fairly recently just because we had a mistake in our
23 regulations, but we did clarify that to make -- to
24 clarify that the lower Copper River was not open to
25 salmon fishing. And I believe that it's been closed
26 since statehood in State regulations, and so we had -- it
27 did show up in our regulations for a couple years, but
28 that was an administrative error and we corrected that
29 about a year ago. So I'm not aware of any fishing for
30 salmon that's occurred in the lower Copper River since
31 statehood.

32
33 ACTING CHAIR GOTTLIEB: Any further
34 discussion. Rod.

35
36 MR. SIMMONS: Yeah, I'd just like to
37 point out among the various gear types that are allowable
38 in freshwater that dipnets provide an opportunity for
39 people to selectively harvest without necessarily
40 damaging the fish that they don't want to retain as
41 opposed to spears and gaffs, et cetera, which is
42 basically you've got to take what you get. So it would
43 seem that dipnets would provide an opportunity for
44 selective harvest for subsistence users.

45
46 ACTING CHAIR GOTTLIEB: Thank you. All
47 right. We have a motion in front of us, which is to
48 reject the proposal contrary to the recommendation of the
49 Southeast (sic) Regional Advisory Council. I believe
50 we've heard that accepting this proposal could be to the

1 detriment of subsistence users. So all those in favor of
2 the motion signify by saying aye.
3
4 IN UNISON: Aye.
5
6 ACTING CHAIR GOTTLIEB: All those opposed
7 same sign.
8
9 (No opposing votes)
10
11 ACTING CHAIR GOTTLIEB: Motion carries.
12 Thank you.
13
14 MR. LITTLEFIELD: Madame Chair, I have a
15 point of order.
16
17 ACTING CHAIR GOTTLIEB: Yes.
18
19 MR. LITTLEFIELD: I believe when our
20 chair left, he said he couldn't vote, but there's -- I
21 believe you have a vote there from Fish and Wildlife
22 Service, and maybe you could rule on that whether that
23 vote should count, just to be consistent here.
24
25 ACTING CHAIR GOTTLIEB: I think my
26 understanding is, and, Ken, perhaps help me out, because
27 I think they sought Keith's advise on this, but I assume
28 Staff Committee -- there's some sort of different
29 standing with the Staff Committee behind Mitch. That's
30 my assumption. I didn't hear an explanation.
31
32 MR. LORD: Are you asking whether Rod can
33 vote for Fish and Wildlife Service, is that the question?
34
35 ACTING CHAIR GOTTLIEB: Yes.
36
37 MR. LORD: Yeah, he's -- Mr. Simmons is
38 now serving as Fish and Wildlife Service's designee if
39 that's your question and can vote.
40
41 MR. LITTLEFIELD: I guess then my
42 question is why isn't Carl Jack sitting in for Mitch
43 Demientieff, because he's his staff officer, too, and, in
44 other words, he would fill that seat. I mean, that's my
45 ration -- that's my -- why I'm wondering what's going on.
46
47 MR. LORD: Right. I don't know. I
48 wasn't in on the discussion that led up to this, so I'll
49 have to defer that until Keith gets back I think.
50

1 ACTING CHAIR GOTTLIEB: With that, we're
2 going to take public testimony and then break for lunch.
3 We have two people who signed up to testify, and I
4 apologize, I don't know which order you signed up, so I'm
5 just to call Gary Patton first. And because of the
6 closest to the noon hour, I think if we have five minutes
7 from each of you, that would be great. Appreciate it.

8
9 MR. PATTON: I would like to ask that I
10 come on after lunch. I would like to have more than five
11 minutes.

12
13 ACTING CHAIR GOTTLIEB: Unfortunately
14 we've scheduled a 1:30 discussion on the Cook Inlet.

15
16 MR. PATTON: Okay. I would still like to
17 have an opportunity to speak more than five minutes if I
18 can. Five minutes doesn't (indiscernible, away from
19 microphone). I heard everybody else talking for quite a
20 while, and I'm kind of interested in this, and it's going
21 to take more than five minutes to address.

22
23 ACTING CHAIR GOTTLIEB: Well, I'll ask
24 Charlie to come up then, please. Charlie Edwardson.

25
26 MR. EDWARDSON: The State of Alaska has
27 been continually operating its commercial fishery on the
28 Copper River since statehood. And we have recently won a
29 Supreme Court opinion where the people of Alaska was
30 affirmed, where Article 12, Section 12 of the Statehood
31 Act was affirmed by the U.S. Supreme Court in a boundary
32 dispute on quiet title action on the North Slope.

33
34 We had existed before statehood, and our
35 Indian fishing rights have never been destroyed, but have
36 been affirmed by the people of Alaska. The State Fish
37 and Game and its fishery biologist is an illegal
38 operation confirmed by the U.S. Supreme Court, and this
39 goes back to the failure of the Bureau of Indian Affairs
40 which Mr. Bunch is a part of. We have a failure and
41 collapse of trust responsibility confirmed by the U.S.
42 Supreme Court effective June 19, 1997.

43
44 There is between the Feds and us -- we
45 are Federal enclaves. State of Alaska cannot dictate to
46 the United States Government. Its condition of rights
47 are not -- are transparent. And this transparency covers
48 trust responsibility by the United States Federal
49 agencies. We are a Federal enclave, and the people of
50 Alaska and the disclaimer clause was affirmed. The

1 people of Alaska and its people shall forever disclaim
2 any right or title to the land now owned by them,
3 including fishing rights. This disclaimer defense was
4 our defense against State intrusion on the North Slope,
5 and the Supreme Court has ruled, and it's high time that
6 the Federal trustees wake up to their charge. Otherwise
7 we're going to have to haul you back in. And this is a
8 promise, this is not a threat. We have to enforce the
9 law of the land. The law of the land has exposed State
10 of Alaska and all of its illicit acts since statehood.

11

12 I wish to close.

13

14 ACTING CHAIR GOTTLIEB: Thank you very
15 much for coming here today.

16

17 Gary, if you want 10 minutes, we have
18 that until lunchtime.

19

20 MR. PATTON: Yes, ma'am.

21

22 ACTING CHAIR GOTTLIEB: Thank you.

23

24 MR. PATTON: How's that, can you hear me
25 okay? My name is Gary Patton. I'm the head of the Koyuk
26 Kwan (ph) Tlingit Nation. Our territory is from the
27 Copper River to Icy Bay. We're known as the Salmon
28 Stream People. Since time immemorial, we have occupied
29 the territory there. Our regalia, our most ancient of
30 regalia, depicts all the fish around, such as what I've
31 got on right now.

32

33 We do not look upon the United States as
34 our source of our fishing rights. Our fishing rights are
35 pre-Columbian. They are ancient historic fishing rights
36 that were founded on the needs of our people to survive.
37 When the Spanish arrived, when the Russians arrived, when
38 the English arrived starving to death, they came to us
39 for fish. We traded those commodities to them.

40

41 Now, I don't really have to go much over
42 what Etuk (ph) has just said, but I am going to leave you
43 a copy of a case here that was filed into the Ninth
44 Circuit Court of Appeals yesterday. Our fishing rights
45 are intact and it is up to the Bureau of Indian Affairs,
46 and if they will not step up to the plate and help
47 protect us against the State, then we are going to have
48 to call this thing back together again. As Charlie said
49 here a little earlier when I told him about this case
50 here, he said, you've got a fight on your hands. Well, I

1 want to know if they're going to step up to the plate and
2 help us with this fight under their trust responsibility.
3 I want the Feds, the Interior Department here overseeing
4 this whole thing.

5
6 I have watched for -- I'm in my 60s, I'm
7 not a kid. I watched this fishery go down the tube up
8 and down the whole coast of Alaska. I've watched Outside
9 interests come in here and actually destroy our economic
10 base up here in Alaska.

11
12 These dividing areas here with sports
13 fishing, commercial fishing, subsistence use is not the
14 way to be handling this.

15
16 I am going to suggest to the tribes of
17 Alaska that we form a regional tribal coastal management
18 plan for the whole State of Alaska. The State of Alaska
19 now is getting \$2 million a year from NOAA for coastal
20 management. Where is their management? That money is
21 just going down the tube. NOAA told me they couldn't
22 give each one of us tribes money for that. So I asked
23 them, how about if we put together a regional tribal
24 coastal management plan. We want to see our policy put
25 in place to protect these fish for a millennia to come.

26
27 As Alaska progresses, and as the tourists
28 come in, and as the sports fishing gets heavier and as
29 the commercial interests from Outside come in and rape us
30 of our resources, and leave us without anything, the
31 displacement -- the economic displacement of our people
32 from this commercial fishery, from this subsistence, how
33 it's set up, how the sports fishing is moving in, how the
34 allocation is moving more toward recreational use,
35 leaving us in disparity, is something we cannot put up
36 with. We are not going to tolerate it.

37
38 We want to know why Charlie Bunch and
39 these guys are not stepping up to the plate. I asked
40 them here a couple months ago. I asked the Interior
41 Department a couple months ago.

42
43 Well, I want to give you guys a copy of
44 this case here. Our way of subsistence as coastal
45 people, our commerce, our economic subsistence is big. I
46 would like to take our -- my kwan, my kwan, my people,
47 for the last hundred years and add up all the hundreds of
48 thousands of pounds of fish. If it's 200,000 pounds of
49 pink salmon a year, it's 4,000 sockeye that we need, if
50 it's four or 5,000 of this or that, to be added up, to

1 find out what our economic subsistence is. And if you
2 guys insist on divid -- in not addressing economic
3 subsistence with subsistence, then you guys are wrong.
4 And this court case I hope is going to help bring the
5 joinder in where the Interior Department is going to step
6 up to the plate on these fishing rights, whether it's
7 subsistence -- any of it.

8
9 We've had enough of this disparity that
10 we've got going. And Ekuk has already said it, and we've
11 said it in here in the Metlakatla case, when you get down
12 to that thing.

13
14 Let me read you one piece out of here.
15 Alaska does not expressly argue that the Secretary's
16 power was destroyed by the Statehood Act. She does,
17 however, contend that control of all fishing was
18 transferred to the State with no exception for Indian
19 fishing, and that only the exclusiveness of Metlakatla's
20 fishing rights was preserved. But legislative history
21 makes clear that the transfer of jurisdiction over
22 fishing was subject to the rights reserved in the
23 Statehood Act under Section 4. Mr. Bunch, it holds.

24
25 ACTING CHAIR GOTTLIEB: Mr. Patton, if
26 you are able to -- I hear you saying you're going to give
27 us a copy of that. If you will give it to the court
28 reporter.

29
30 MR. PATTON: I will. And I'm going to
31 try to encourage the tribes of Alaska to come together so
32 that we do not have all this division going on, and call
33 for a regional coastal management plan so that we can
34 assure into the millennia that we are not going to be
35 pushed out of what you guys are pushing us out of.

36
37 Thank you.

38
39 ACTING CHAIR GOTTLIEB: Thank you.
40 Appreciate the comments.

41
42 UNIDENTIFIED VOICE: Over there.

43
44 UNIDENTIFIED VOICE: Over in the corner.

45
46 UNIDENTIFIED VOICE: Over in the corner
47 by the box. (Indiscernible, away from microphone) pushed
48 in the cardboard box.

49
50 ACTING CHAIR GOTTLIEB: Thank you

1 everybody for a productive morning. We're going to
2 adjourn until 1:20 so that we can promptly start at 1:30.
3 Thank you.
4
5 (Off record)
6
7 (On record)
8
9 ACTING CHAIR GOTTLIEB:everybody,
10 thanks for getting back here. I want to introduce
11 Commissioner McKie Campbell from Department of Fish and
12 Game who's joining us at the table for Proposal 9.
13 McKie, welcome.
14
15 MR. CAMPBELL: Thank you, Madame Chair.
16 I appreciate it, and I'm honored to be here with you. I
17 appreciate your hospitality.
18
19 ACTING CHAIR GOTTLIEB: Thank you. Okay.
20 Helen, we're ready to start Fishery Proposal 06-09, Cook
21 Inlet.
22
23 MS. ARMSTRONG: Thank you, Madame Chair.
24 Proposal FP06-09 was submitted by the Ninilchik
25 Traditional Council, Steven Vanek, Fred Bahr and Henry
26 Kroll, and it requests the following: a positive
27 customary and traditional use determination for all
28 residents of the Cook Inlet area for salmon, Dolly
29 Varden, trout, char, grayling and burbot taken in the
30 Cook Inlet area, and a positive customary and traditional
31 use determination for all residents west of a line due
32 southeast of the Crescent River mouth and intersecting
33 another line drawn northeast of the south side of Tuxedni
34 Bay for herring, smelt, whitefish, and salmon taken in
35 Tuxedni Bay.
36
37 I'd like to make a side note here that
38 that description that was in the proposal is not a
39 regulatory description of where we have Federal
40 jurisdiction. It's the description of where the
41 residents live in Tuxedni Bay, and I'll just refer to as
42 Tuxedni Bay in the future.
43
44 This proposal is deferred and combined,
45 as you all know, from the -- from previous proposals from
46 the 2002 regulatory cycle FP02-11a that was submitted by
47 the same people and requested a positive C&T
48 determination for all fish and all shellfish in the Cook
49 Inlet area for residents in the Kenai Peninsula district.
50 Proposal FP02-12a was submitted by Henry Kroll and

1 requested a positive customary and traditional use
2 determination for herring, crab, smelt, whitefish, razor
3 clams, and salmon in Tuxedni Bay for residents of Tuxedni
4 Bay. And then Proposal FP02-13a was submitted by Steve
5 Vanek of Ninilchik and requested a subsistence season for
6 salmon and halibut in the Cook Inlet area.

7
8 The Federal Subsistence Board deferred
9 making decisions on the use of fish in the Cook Inlet
10 area at that time until the completion of a Fish and
11 Wildlife Service-funded study, the Cook Inlet Customary
12 and Traditional Subsistence Fisheries Assessment by the
13 Alaska Department of Fish and Game, Division of
14 Subsistence, and the lead author was Dr. Jim Fall,
15 because the Board had concluded that historical,
16 contemporary, community and area specific harvest
17 information was needed to address the unique and rapidly
18 changing situation in the Cook Inlet.

19
20 I am not going to go through every single
21 part of this analysis, because as you can see in the book
22 it's quite lengthy, but I will draw attention here and
23 there to places where the reader can look for more
24 information.

25
26 Appendix A has details on the deferred
27 proposals for those people who are interested.

28
29 In map 1, can -- Theo, do you have map 1
30 of the -- this map shows the area that is under
31 discussion, and I want to emphasize that only those
32 communities that have been determined by the Board to be
33 rural are under consider. It does not take into
34 consideration the non-rural communities, which are Kenai,
35 Soldotna, Homer, Clam Gulch, Kalifornsky, Nikiski,
36 Salamatof, Sterling, Anchor Point, Kachemak City, Fritz
37 Creek, Seward, and Moose Pass.

38
39 The second part of this proposal requests
40 a C&T determination for herring, smelt, whitefish and
41 salmon in Tuxedni Bay. These were already covered
42 previously in regulation under fish other than salmon.
43 So only salmon will be considered in this analysis or
44 Tuxedni Bay.

45
46 There are some related proposals, FP06-10
47 through 13, which we have deferred until the 2007
48 regulatory year after the Board has made the customary
49 and traditional use determination for this proposal.
50 Then they will take up the deferred ones. The deferred

1 proposals deal with seasons and harvest limits. I'd like
2 to emphasize that this is a customary and traditional use
3 determination, and that this proposal does not address
4 issues of allocation, seasons, or methods and means.
5 These will be dealt with with the deferred proposals in
6 2007 we're assuming.

7

8 The existing Federal regulation is that
9 there is no determination for these species. The --
10 which means that all Federally-qualified rural residents
11 currently can take salmon, Dolly Varden, trout, char,
12 grayling and burbot under Federal regs, and the --
13 currently these are under sport harvest and season -- or
14 they mirror sport harvest and seasons at this time.

15

16 I didn't refer, I'm sorry, to the map
17 here for Tuxedni Bay to demonstrate where that is
18 across the -- on the west side of Cook Inlet, where the
19 volcano ash is heading at this moment I hear this
20 morning. Somebody said, where is that? I said, Tuxedni
21 Bay. No. Hopefully it won't come here.

22

23 The extent of Federal public waters for
24 this is in the Cook Inlet area, which is map 2 on Page
25 197, and up here on the screen. It includes the
26 drainages of Cook Inlet and all waters of Alaska enclosed
27 by a line extending east from Cape Douglas, and a line
28 extending south from Cape Fairfield.

29

30 I think it's important for us to always
31 keep in mind where the Federal waters are in this area,
32 because there is significant fishing that goes on outside
33 of the Federal waters. So if you keep this map in mind
34 and refer to it as I go through.

35

36 The Federal waters are within the Kenai
37 National Wildlife Refuge, portions of Denali National
38 Park, and Lake Clark National Park on the west side of
39 Cook Inlet, the Alaska Maritime National Wildlife Refuge
40 and the Chugach National Forest.

41

42 The Department of Interior Solicitor's
43 Office has reviewed jurisdictional issues related to
44 Chisik Island, which is in Tuxedni Bay, and determined
45 that no pre-statehood Federal withdrawals include the
46 marine submerged lands around Chisik Island. Therefore
47 Federal jurisdiction in Tuxedni Bay within the Cook Inlet
48 area does not extend to the marine waters around Chisik
49 Island.

50

1 The National Park Service regulations
2 identify qualified local rural subsistence users within
3 Alaska national parks by identifying communities or areas
4 commonly referred to as resident zone communities, which
5 include a significant concentration of rural residents
6 who have customary and traditionally engaged in
7 subsistence uses within a park, a preserve or a monument,
8 and identifying and issuing subsistence eligibility
9 permits to individuals who reside in rural areas outside
10 of a resident zone, but who have a personal or family
11 history of use in that park or monument.

12
13 None of the resident zone communities for
14 Lake Clark National Park, those communities are Iliamna,
15 Lime Village, Newhalen, Nondalton, Pedro Bay, and Port
16 Alsworth, are in the Cook Inlet area, nor is there
17 evidence that they used the Cook Inlet area to harvest
18 fish. Therefore they were not considered in this
19 analysis.

20
21 The National Park itself is a resident
22 zone, therefore the residents of the park in the Cook
23 Inlet area are qualified rural subsistence users of the
24 park.

25
26 There is a portion of the Denali National
27 Park and Preserve that is in the Cook Inlet area, but
28 they -- this portion is covered by glaciers, and we have
29 no evidence that the Denali National Park resident zone
30 communities, those are Nicolai, Telida, Minchumina and
31 Cantwell, harvest fish in the Cook Inlet area. So they
32 were not considered in this analysis.

33
34 The regulatory history for this area is
35 rather long and complicated, and this was an area that
36 was -- we had asked for more information from the Fall
37 study, the 2002 study. There is a lot more to be said on
38 this. I'm going to touch on some of it, but there's
39 certainly -- if you want more reading time, you can refer
40 to Chapter 2 in the Fall Cook Inlet study.

41
42 Until 1952, the freshwater streams in the
43 Kenai Peninsula were open to subsistence fishing, but
44 commercial fishing decimated the salmon populations and
45 salmon stocks began a steady decline, so that in 1952 all
46 streams and lakes of the Kenai Peninsula were closed to
47 subsistence fishing. Only rod or hook or line were
48 allowed for personal use. There is an appendix in table
49 1 that summarizes the history of Cook Inlet subsistence
50 and personal use salmon fishing regulations, but I'm not

1 going to go through those.

2

3

4 Since 1992 most of the Cook Inlet area
5 has been classified as a non-subsistence area under State
6 regulations. Small portions around Nanwalek, Port
7 Graham, Seldovia, and Tyonek, which are all not road
8 connected, are outside of the non-subsistence area, and
9 these four communities are located within State managed
10 areas. There are no waters where -- Federal waters where
11 fishing takes place.

12

13

14 Rainbow and steelhead trout are taken
15 incidentally under state regulations and other
16 subsistence fin fish net fish -- fin fish net fisheries,
17 and through the ice may be retained for subsistence
18 purposes, which is provision mirrored in the Federal
19 regulations.

20

21

22 In the analysis there's more information
23 State's regulations. I'm not going to go through those,
24 but on Pages 199 through 200.

25

26

27 The map on Page 201 which shows the
28 --it's map 2 that shows the communities in the Cook Inlet
29 area, and the areas affected by this proposal, they --
30 these communities are also listed in Page -- in table 2
31 on Page 201. There are a lot of communities. I'm not
32 going to go through all of them, but there is a list in
33 there, their historical origin, and the areas relevant to
34 the proposal.

35

36

37 The area affected by these proposals
38 involves the traditional territory of two Alaska native
39 cultures and areas used by -- and then also areas used by
40 non-native settlers since the late 1700s. So we have
41 really three cultures that we that have all come into the
42 Kenai Peninsula.

43

44

45 The Kenai Peninsula where the traditional
46 territory of the Dena'ina Athabaskans extends from
47 Kachemak Bay on the Kenai Peninsula west across Cook
48 Inlet to the Stony River and northeast to the Susitna
49 Basin, bridging the Alutiiq territories of Prince William
50 Sound with Kodiak Island and the Alaska Peninsula. And
51 then we have the homesteaders who came in, who have
52 actually been here for quite a while.

53

54

55 The non-native settlement on the Kenai
56 Peninsula began in the 18th century with the Russians and
57 fur trade, and later mining efforts in Kachemak Bay. At

1 the end of the 19th century, commercial fishing brought
2 new settlements. The next major non-native settlement
3 period began during the gold rush in the end of the 19th
4 century. Hope and Cooper Landing settlements were
5 related to this period. Homesteading in the Homer region
6 occurred from 1915 through 1940.

7
8 And the most recent group of settlers to
9 arrive in the area are the residents of the -- that are
10 called the Old Believers, which are a reclusive Russian
11 Orthodox religious group. Those communities are
12 Kikolaevsk, Voznesenka, Razdolna and Kachemak Silo. All
13 of those are non-rural -- I mean, are rural communities,
14 the Old Believer communities. And they first purchased
15 and on the Peninsula in 1967. Voznesenka, Razdolna and
16 Kachemak Silo are all within the general vicinity near
17 the Homer area, within a couple of miles of each other,
18 so they're really not -- I guess there's been some
19 division between some of the communities, but they're
20 quite close to each other.

21
22 In the 11 communities and areas under
23 consideration in this analysis, salmon was, of course,
24 the most harvested by all communities. Freshwater fish
25 were also harvested by all communities.

26
27 The ADF&G did a study in 1998 that -- a
28 household use study in the area unofficially referred to
29 as the Ninilchik and Homer rural areas. These were
30 divided into six study areas: Ninilchik, which included
31 Happy Valley, the census designated place called Happy
32 Valley, Nikolaevsk, the North Fork Road, which includes a
33 portion of Anchor Point census designated place, which is
34 non-rural, Nikolaevsk and those who were not included in
35 any census designated place, but are counted as part of
36 the remainder of the Kenai/Cook Inlet census subarea.
37 Then there's Fritz Creek East, which includes a portion
38 of the Fritz Creek census designated place along the East
39 End Road east of McNeil Canyon. Voznesenka. Razdolna
40 and Kachemak Silo, and those were part of the Fox River
41 census designated place.

42
43 These were all identified as subsis -- as
44 study areas. Because of the timing of commercial fishing
45 activities, they did not have surveys carried out in
46 Razdolna and Kachemak Silo, but contact was made with
47 those communities and their uses were considered to be
48 similar to Nikolaevsk and Voznesenka. I want to
49 emphasize that point, because we don't have information
50 from those communities, so later I think you'll hear that

1 it was assumed that those communities had similar use
2 patterns and were give -- I think, the Staff Committee
3 recommendation was to give them all the same -- consider
4 them the same.

5
6 In 2002/2003 after the Board deferred
7 these proposals, as I mentioned, we had the study done by
8 Dr. Jim Fall. And this study is actually I think rather
9 remarkable in -- since I've been at Fish and Wildlife
10 Service, which was from the beginning of time in the
11 subsistence program, having worked on the EIS. We don't
12 usually have this level of detail of information, so we
13 have -- we had the 1998 study from Dr. Fall. We knew
14 that there were fish harvests going on, but we didn't
15 know where those harvests were occurring. So in the 2002
16 study they looked at a thorough review of subsistence
17 fisheries both past and present in Cooper Landing, Hope,
18 Nikolaevsk, Ninilchik and Seldovia, and they looked at
19 the household use, harvest, harvest locations, and other
20 information that was pertinent to subsistence fishing.

21
22 Using all of this information I just
23 talked about, we then went through the eight factors and
24 tried to make some sense of all of this information. The
25 eight factors, for those who are interested, are listed
26 on Page 203. I am not going to go through every single
27 eight factors, because this is an extremely proposal.
28 But I do want it to be known that it is in the record,
29 and they were all considered.

30
31 The long-term consistent pattern of use,
32 which is one of the most important factors, if you don't
33 have a long-term consistent pattern of use, you really
34 can't have C&T. There's a lot of information on this.
35 And this mostly pertains to the actual use of the fish,
36 not where the fish were used. That's under the area of
37 use.

38
39 The Dena'ina Athabaskans, as I said
40 earlier, are the indigenous people of much of the Kenai
41 Peninsula, and they refer to themselves as the Kenaitze.
42 The Dena'ina have occupied the Cook Inlet area since 1000
43 A.D., both the east and the west side of Cook Inlet, and
44 the Tuxedni Bay region. As I noted earlier their -- the
45 subsistence use patterns have changed because of the
46 influx of homesteaders and miners and trappers and gold
47 rush enthusiasts, and -- so that the Dena'ina way of life
48 has changed significantly over time through -- in their
49 economic, social and health conditions.

50

1 There's more detailed information in Jim
2 Fall's study on Pages 16 through 31. I'm going to touch
3 on a few points here, I'm not going to go into it in as
4 much detail as he did provide. He did a really excellent
5 job in that section.

6
7 Many Dena'ina fished fall runs of coho
8 salmon upriver along the Kenai and Kasilof Rivers at
9 traditional settlements like Stepanka which was at Skilak
10 Lake, Federal waters, or camps along the Killy and other
11 tributary rivers. The gold rush brought the major
12 immigration and created settlements at Kenai, Knik and
13 Hope, and with that death -- came disease and decimated
14 the Dena'ina. In the early 1900s, the annual subsistence
15 cycle of the Dena'ina was commercial fishing in the
16 Inlet, and then at the mouth of the Kenai River, which is
17 non-Federal, during the spring and summer, and going
18 upriver in the fall to harvest the fall run of silvers,
19 fish for freshwater fish, hunt moose, and trap fur
20 bearers. This continued until the 1940s with the
21 creation of the Kenai National Moose Range. In the early
22 1940s many Dena'ina continued their traditional pattern
23 of going up to the Stepanka camp. By this time, the
24 Dena'ina population had been so decimated that most
25 Dena'ina were concentrated in Kenai, and were rarely seen
26 in the Cooper Landing area.

27
28 This is an important point to make, that
29 while we talk about the Dena'ina -- and this is something
30 I've been grappling with as an anthropologist, this is
31 not the region I've done most of my work in over the past
32 20 years with the Federal Government, but I have had some
33 discussions with Dr. Fall about this, and the Dena'ina
34 today are mostly in Kenai, which is non-rural. So
35 although we have a lot of information about them, it
36 doesn't necessarily mean that these are the people that
37 are in the other rural areas, although some of those use
38 patterns may also be the same. And this I think is
39 somewhat unclear, because, I mean, of course, there's
40 been intermarrying between people in the communities.

41
42 In the 1970s land claim hearings were
43 held attesting to traditional uses of lands and cabins
44 along the upper Kenai River, and fishing between the
45 Kenai River and Tustumena Lake into the 1940s. In 1940
46 when the Kenai moose range -- '41 when the Kenai Moose
47 Range was established, only those who had permits could
48 use the cabins previously built by trappers and
49 subsistence fishermen. Despite these Federal rules,
50 there is some evidence, according to Fall, that Alaska

1 natives continued their annual trapping, hunting and
2 fishing activities based from their ancestral locations.

3

4

5 The homesteaders arrived in the 1930s and
6 40s, and after World War Two, the commercial and
7 subsistence fishing became important aspects in their
8 annual cycle. In freshwater, gillnets and seines were
9 used in the Kenai, Skilak and Tustumena Lakes to harvest
10 lake trout, grayling, whitefish and char. Trappers in
11 the upper Kenai area maintained gillnets in the upper
12 Kenai and caught salmon and trout for personal use.
13 Other uses mentioned were taking silver salmon through
14 the ice in the winter and steelhead below Skilak Lake in
15 the 1940s and early 1950s. Andrew Berg, a trapper who
16 lived from 1869 to 1939 and a guide on the Kenai
17 Peninsula, documented his use of subsistence resources,
18 including harvesting trout in Tustumena, Dolly Varden,
19 salmon and whitefish at the mouth of Indian Creek.

20

21 So we have a lot of indication of uses of
22 Federal waters during that time period. The difficulty
23 how we make the link to people today.

24

25 In 1952 gillnets were made illegal in
26 many freshwaters, thus eliminating one of the Kenai
27 Peninsula Dena'ina's primary reasons for their fall
28 occupation of the upriver sites, and a closure of the
29 traditional Sepanka fishery that had been a traditional
30 long-standing source of salmon for the Dena'ina, the
31 Kenaitze Indians. As a result of this closure, snagging
32 became the primary harvest method. By 1973 snagging had
33 become illegal. Local residents turned to the beaches of
34 Cook Inlet to fish with gillnets in a subsistence
35 fishery. In the 1970s sportfishing had grown and Kenai
36 had become a favorite sport for sportfishing. By the
37 early 1980s the State of Alaska Board of Fisheries added
38 more restrictions on subsistence and personal use fishing
39 along the Cook Inlet beaches, closing beaches to
40 subsistence gillnetting. By the mid 1900s only -- 1990s,
41 only two personal use fisheries remained at the mouth of
42 the Kenai and the Kasilof Rivers. So we can see a lot of
43 change has gone on in the past 50 years.

44

45 Over on the west side, the other part of
46 our proposal, the -- in the early 1900s, the Dena'ina on
47 the west side of the Cook Inlet lived in villages at
48 Polly Creek and Tyonek. They used the entire river and
49 trail system, and all of the major bays along the west
50 side of Cook Inlet. But disease decimated these people

1 as well, and the remaining Alaska natives moved to Tyonek
2 and to Kenai and none of the other villages remain on the
3 west side.

4
5 The west side of the Inlet was also
6 utilized by people living on the east side. As recently
7 as the 1970s and 1980s there were reports from people
8 from -- of people from Ninilchik traveling to the west
9 side to harvest salmon for commercial and subsistence
10 purposes, as well as to take moose, black bear and harbor
11 seals. They had camp sites at Tuxedni Bay or stayed with
12 friends with cabins and homesteads in the area.
13 Subsistence fishing on the west side also has been
14 regulated since the 1980s when commercial fishermen could
15 no longer remove salmon for home use from their
16 commercial harvest, and catch fish for home use in
17 accordance with subsistence regulations. When
18 subsistence fishing was closed in the 80s throughout the
19 Inlet, some noncommercial set net fishing occurred on the
20 west side outside of regulations.

21
22 In the 2002/ 2003 study by Dr. Fall, only
23 29 percent of Cooper Landing household and 16 percent of
24 Seldovia households said they had ever fished in Tuxedni
25 Bay, and respondents in other communities had never
26 fished in Tuxedni Bay. So it appears that that use has
27 more than likely -- is not continued today, although this
28 is only one hear of study.

29
30 Bringing us to the current fishing
31 practices today, salmon have been consistently used by
32 the residents of the Kenai Peninsula, whether the harvest
33 has been from subsistence, personal use, commercial or
34 sport allocations. Their use of salmon is based on the
35 three traditions: Dena'ina, Alutiiq, and the early
36 settlers and homesteaders.

37
38 A recent -- the ADF&G study in 1998
39 documented uses in Ninilchik and the Homer rural areas
40 and found that salmon contributed about 60 percent of all
41 fish harvested in Nikolaevsk, Ninilchik, Seldovia, and
42 about 70 percent of all fish harvested in Cooper Landing
43 and Hope. Freshwater fish harvests were relatively small
44 with less than three to eight percent of the fish
45 harvested. Marine fish, primarily halibut, provided the
46 remainder of the fish harvest.

47
48 Rainbow trout and Dolly Varden are
49 available locally to -- I'm sorry.

50

1 Subsistence salmon users -- actually --
2 during this period, Tyonek, Port Graham, and English Bay
3 qualified for participation in subsistence fisheries.
4 The Seldovia Bay fishery began in 1996. And the court
5 decisions affecting openings, gear types and user groups
6 throughout this period in the remaining areas of the Cook
7 Inlet. There's an appendix in appendix B, tables 2 to 4
8 that illustrate the regulatory history of the seasons,
9 methods, and harvest limits affecting all of these users.

10
11 In Tyonek rainbow trout and Dolly Varden
12 are available locally, but this use is not on Federal
13 lands -- or Federal waters.

14
15 Data relating to the use of fish species
16 in this proposal are available for 12 of the 15
17 identified communities in the Cook Inlet area through
18 ADF&G household surveys. And there's a table that lists
19 all of those in table 4 on Page 206. These surveys were
20 conducted in the 1990s with the exception of Tyonek where
21 the study was done in 1983 and '84, and then the later
22 survey done in 2002.

23
24 There is no direct documentation
25 available for the residents of Beluga, Razdolna, Kachemak
26 Silo and Halibut Cove.

27
28 The household surveys show that salmon is
29 the primary fish resource. Salmon is the highest
30 category of each resources in each community except
31 Ninilchik where moose is the highest. Of the other non-
32 salmon species, Dolly Varden, rainbow, and trout are the
33 only species used in every community. Three communities
34 do not show use of lake trout or char. These are
35 Seldovia, Tyonek and Voznesenka. Lake trout are only
36 found in Federal waters. Grayling is used by Hope,
37 Cooper Landing, North Fork Road, Fritz Creek and Tyonek
38 households. Arctic char was used in two communities,
39 Fritz Creek and Seldovia. Burbot was only used by Hope
40 households in 1990.

41
42 The pattern of use in the non-salmon
43 species reflects the distribution of the resource in the
44 Cook Inlet area. There are few isolated populations of
45 arctic char and those are found in the Swanson River area
46 and Cooper Lake. Burbot also has a limited presence in
47 Juneau Lake near Cooper Landing. Cooper Landing, Hope,
48 Nikolaevsk, Ninilchik and Seldovia households did not
49 report any harvest of burbot in 2002/2003.

50

1 When Dr. Fall was doing the study in
2 2002, they compared the estimated harvest of all fish
3 from their 1998 study, and this is I think an interesting
4 comparison, because as measured in pounds per person from
5 other years where they had data, the results were
6 similar. And this is done as a verification to see
7 whether their studies are actually in line with one
8 another.

9
10 In Cooper Landing, Hope, and Ninilchik,
11 the estimated harvest in 2002/2003 were similar to the
12 most recent study year of 53.9 pounds per person of fish
13 in 1990, 61.7 pounds in 2002. that was for Cooper
14 Landing. Hope was 65.8 in 1990, 62.4 in 2002/2003. And
15 Ninilchik was 80.8 in 1998 and 81.7 in 2003/ 2003.
16 They're really quite similar.

17
18 In ADF&G's 2002/2003 study, between 53
19 percent and 62 percent of Cooper Landing, Hope,
20 Nikolaevsk, Ninilchik and Seldovia households fished for
21 salmon, and between 20 and 45 percent fished for non-
22 salmon. Of freshwater fish harvested, these five
23 communities all harvested Dolly Varden and rainbow trout.
24 Pike were harvested by all but Hope. Pike, as a side
25 note, was introduced illegally in the 1970s in the
26 Soldotna Creek drainage. Grayling weren't harvested by
27 Ninilchik households. Lake trout weren't harvested by
28 Seldovia households. Whitefish were only harvested by
29 Cooper Landing households. Steelhead were only harvested
30 by Cooper Landing and Seldovia households. And no one
31 harvested burbot.

32
33 In Nikolaevsk, the estimate for 2002/03
34 was lower than the estimate for 1998 pounds per person
35 when compared to the 2002 study. It was 102 in 1990 -- I
36 misread that. It was 73.7 pounds per person in 2002
37 compared to 100.2 pounds per person in 1998. In
38 Seldovia, the estimate was higher than studies done
39 1993/1994, as well as in 1991/92 with 161 pounds per
40 person in 2002, 132 in 1993/94, and 99.6 in 1995.

41
42 So I think in conclusion we can see that
43 there are some species of freshwater fish used by some of
44 the communities, and certainly if people need me to
45 summarize that, I can later on. But there is evidence
46 that these communities have harvested, particular -- all
47 of them have harvested salmon, and then some of them have
48 harvested -- they've all harvested freshwater fish,
49 although not all of them have harvested all of the
50 resources, depending on where those resources are

1 located.

2

3

4 The seasons of use have been affected,
5 because since statehood salmon season openings have been
6 regulated by the State. For other species other than
7 salmon, the harvest occurred throughout the year
8 according to the availability and associated activities
9 with some species targeted for ice fishing in the winter.

10

11 In Fall's 1984 study, he noted three use
12 patterns of rainbow trout and Dolly Varden, the harvest
13 in the winter months through the ice with rod and reel,
14 the harvest in the summer months by children in local
15 creeks and lakes, and the occasional harvest associated
16 with other activities such as rod and reel salmon fishing
17 and moose hunting.

18

19 I'm not going to -- oh, I have a page out
20 of order here. I'm not going to go through all the other
21 -- as I said earlier, all of the other eight factors, but
22 if anybody has any questions about those and wants me to
23 go through them, I can. The one I think that's the
24 biggest consideration now that I've gone through all of
25 that is the areas of use, where are these communities
26 taking these fish and how much -- how many people from
27 those communities are taking them.

28

29 As I stated before, the regulatory
30 actions in 1952 have prohibited subsistence fishing by
31 rod and reel, and this has affected people's use
32 patterns.

33

34 Map 4 on Page 215 shows the harvest
35 locations. Now it doesn't have the actual areas, but it
36 has the names of the different locations. Dr. Fall's
37 study didn't have maps of areas, but they did have tables
38 where they listed by drainage or by some of -- Kenai Lake
39 streams where harvests were occurring. And we created a
40 map with those places labelled so that you could have
41 some idea of how those -- where those were then on --
42 whether they were on Federal waters or not. And the map
43 is on Page 215 in your book.

44

45 Cooper Landings' fish harvest from
46 Federal public waters in 2002, I want to emphasize this
47 is only one year of data, were as follows: Forty percent
48 -- 40 and 29 percent of the households took sockeye
49 salmon from the Russian and upper Kenai Rivers. About
50 two percent of the households took chinook salmon.
51 Sixteen percent of households took coho from the upper

1 Kenai River and Skilak Canyon. Less than one percent of
2 households harvested pink salmon from Kenai Lake and the
3 Russian River each. Dolly Varden, rainbow trout, and
4 lake trout were taken in the Kenai Lake and Kenai Lake
5 streams, the Kenai mountain streams, and the Russian,
6 Swanson, and upper Kenai Rivers and the Skilak Canyon.
7 All remaining harvest were from State-managed waters, and
8 these areas were used by less than two percent each of
9 households. The lower Kenai River, which is under State
10 management, is important for taking chinook, sockeye and
11 coho salmon.

12
13 Cooper Landing residents harvest some
14 grayling in Crescent Lake and Crescent Creek.

15
16 For Hope, and this included the census
17 designated place called Sunrise, in 2002/2003, the Hope
18 residents primarily used the Kenai Mountain streams on
19 the Chugach National Forest and the Kenai National
20 Wildlife Refuge to harvest coho, 35 percent of
21 households, pinks, 20 percent, chums 12 percent, Dolly
22 Varden, 17 percent, lake trout, 2 percent, and hooligan,
23 2 percent. Also on the refuge, Hope residents took
24 sockeye salmon from the upper Kenai and Russian Rivers as
25 well as from the State-managed waters on the lower Kenai
26 River. Hope residents did not harvest steelhead in
27 2002/2003.

28
29 Nikolaevsk. For most Nikolaevsk
30 households, 98 percent, harvested most of their fish from
31 State-managed waters, Kachemak Bay and the lower Kenai
32 River. Only one household harvested sockeye and rainbow
33 trout from the Russian River. That was two percent of
34 households. Nikolaevsk's use patterns are considered to
35 be similar to the use patterns of the residents of
36 Razdolna, Kachemak Silo, and Voznesenka.

37
38 Ninilchik. Some documentation is
39 available on the use of waters in the Kenai National
40 Wildlife Refuge before 1952 from a 1994 Ninilchik
41 subsistence survey, which mapped resource use over an
42 individual's entire lifetime. I believe that the
43 Ninilchik Tribal Council probably will be talking about
44 some of this later on. These maps showed use areas
45 covering the entire Kenai Peninsula and represented use
46 in the respondent's lifetime.

47
48 Other historic evidence of use is
49 provided in a 1975 study of historic sites of the Cook
50 Inlet region. Nine locations of Federal public lands are

1 described which may have signs of fish camps or caches.
2 One of these sites at the Russian River camp ground in
3 the refuge identified salmon and other fish bones used by
4 the Riverine Kachemak and Dena'ina peoples. It is
5 unknown if these sites were used by ancestors of any of
6 the people living in rural areas of the Kenai Peninsula
7 today.

8

9 Before the road was built in 1951,
10 Ninilchik was physically confined to the area near the
11 mouth of the Ninilchik River. the residents of Ninilchik
12 before then used the Inlet as their highway and travelled
13 to the west Cook Inlet area with more frequency than they
14 do today. Subsistence harvesting activities usually
15 involved a number of resources. The area has been
16 identified on resource maps as a traditional use area for
17 Ninilchik residents. This is really -- is talking about
18 how they use the west Cook Inlet area.

19

20 The 1952 closures have -- and
21 restrictions to subsistence fisheries have impacted the
22 traditional use patterns of Ninilchik. the Ninilchik
23 natives now live in permanent homes and no longer move
24 seasonally to hunt and fish. Their fish harvests are now
25 generally concentrated close to their homes, particularly
26 when fish are abundant. In the 2003/03 survey of
27 Ninilchik households interviewed, 17 percent of all
28 households were interviewed, and there at 577 households
29 if I'm remembering correctly. Few harvested fish from
30 Federal public waters. There were four percent of
31 households interviewed, and this was four households,
32 they harvested sockeye salmon in the Russian River, and
33 one percent harvested rainbow trout and lake trout in
34 Kenai Lake or Kenai Mountain streams on the Kenai Refuge.

35

36

37 One thing that has happened as this
38 proposal analysis has evolved is that in the beginning
39 when we were reading the Fall study, people focused quite
40 a bit on the number of households who were taking fish
41 from Federal waters, and there was a lack of
42 understanding from many of us that the study showed that
43 one household or four households harvested fish, that
44 actually there was an expansion to that, because there
45 were 100 households interviewed out of the 577. So if
46 you multiply that out, the four households is actually 23
47 households. I then worked with the statistician from our
48 office and she determined that it was between 17 and 28
49 if you apply then a confidence interval. That's still
50 not a lot of households out of 577, but it's more than

1 one, and it's more than four. So I wanted to emphasize
2 that, that in all of these when we're talk -- that in the
3 Fall report, when you look at the tables, the percent of
4 households that harvested anything, that those are the
5 percent of households that they surveyed. They aren't
6 the percent of the community, and I think that there was
7 a misunderstanding of that through the process of this --
8 development of this analysis.

9
10 Chinook and coho salmon and Dolly Varden
11 were taken from the Ninilchik River and Deep Creek, both
12 under state management, and close to Ninilchik. Most
13 Ninilchik residents took sockeye salmon from the lower
14 Kenai River, and sockeye salmon were taken from the
15 Kasilof and Ninilchik rivers. All of these were outside
16 of Federal jurisdiction.

17
18 After the early analysis was written and
19 the Council meeting -- met on this, I had some
20 discussions with Dr. Fall, because it became clear to us
21 at the Council meeting that there was some use from
22 Ninilchik, particularly the Ninilchik Tribal Council,
23 people testified that Tustumena Lake was an important
24 place for them to harvest fish. And Tustumena Lake
25 didn't show up in his study, and I pondered why would
26 this have happened. And he had his staff go back and
27 look at the Ninilchik surveys and found that there was in
28 fact a household that took trout from Tustumena Lake that
29 had not been -- it had been codes as Kasilof River
30 drainage, which was then listed in the report as being
31 non-Federal. And so it sort of got absorbed in there.
32 And it's only one household, but again the multiplying
33 factor, you add -- you multiply that out, that's six
34 households, there's -- plus or minus some number in
35 there. So there is some evidence from Fall's study that
36 there is some use of Tustumena Lake, but it wasn't in the
37 report.

38
39 After the early drafts of this analysis
40 were prepared, prior the Southcentral meeting, there was
41 an unpublished survey found of Ninilchik Traditional
42 Council members' subsistence uses in 1999 of fish and
43 wildlife. This was a survey funded by BIA and conducted
44 by the Ninilchik Traditional Council in 1999. The
45 Ninilchik Traditional Council provided this information
46 in preliminary form to the Southcentral Council at their
47 meeting in October of 2005 for their consideration. The
48 information provided some indication that the Ninilchik
49 natives harvest char and trout from Federal waters,
50 particularly in the Tustumena Lake area, but there

1 weren't specific drainages that were really -- there was
2 -- and I'm not sure what they'll present today, but at
3 the meeting, Southcentral meeting, there were maps with
4 unit, the wildlife units and there was reference to what
5 had been taken, but not to specific drainages.

6
7 There was public testimony at the
8 Southcentral Council noting that fishing occurred in the
9 Skilak and Tustumena Lakes and the Swanson River lake
10 system. Trout was also -- was the only fish specifically
11 mentioned in the testimony as to what was taken.

12
13 BIA staff met with the Ninilchik
14 Traditional Council in September of 2005 to see if
15 additional information could be elicited from the survey
16 regarding specific locations of fish from Federal waters
17 on the Kenai Peninsula. And the fish -- the harvest
18 locations mentioned in their meeting were Tustumena Lake
19 for Dolly Varden, lake trout, rainbow trout and coho
20 salmon. And one person at this meeting noted that 20
21 people during the fall of 2005 took trout from Tustumena
22 Lake and Bear Creek in the Tustumena area. Indian Creek,
23 which is a tributary to Tustumena Lake was also mentioned
24 as were Summit and Hidden Lakes and trout fishing through
25 the ice.

26
27 Seldovia. None of the Seldovia
28 households interviewed in 2002/2003 used any Federal
29 public lands or waters for fishing. Their primary
30 fishing location was Kachemak Bay.

31
32 Port Graham and Nanwalek, today their use
33 areas are fairly localized. They are State-managed
34 waters. In the past their hunting and fishing and
35 gathering areas included the entire coastline islands and
36 much of the inland areas from Resurrection Bay to Anchor
37 Point, but these areas area either not Federal public
38 waters or in non-subsistence use areas. The area
39 Resurrection Bay is a non-subsistence area in the Kenai
40 Fjords National Park and Preserve. The reduction in the
41 use areas for Port Graham and Nanwalek has come about
42 with changing land ownership, new settlements and
43 competitive uses.

44
45 Tyonek, which is also in the Cook Inlet
46 area on the west side, their subsistence uses of fish are
47 in the west side of cook Inlet, and are in water --
48 entirely in waters that are managed by the State.

49
50 For Tuxedni Bay, there are only a few

1 people who we know of, two house -- two families I
2 believe that live in Tuxedni Bay. There are a small
3 group of subsistence users that in the past used Tuxedni
4 Bay for fishing. One of the -- there was a study -- I'm
5 sorry. There was a random telephone survey done in 1991
6 of the Kenai Borough residents, and it found that 129 or
7 32 percent of the 406 people called had used west Cook
8 Inlet portion of Lake Clark National Park, and of those,
9 52.7 percent fished for salmon in the area, and of these
10 less than five percent were subsistence users. So that
11 was in 1991. The areas that they used were Polly Creek,
12 Chitina Bay, Tuxedni Bay, and Chisik Island, Silver
13 Salmon Creek, crescent River and Clam Cover and Spring
14 Point. These were people in the Kenai Borough and that
15 was in 1991. The majority were recreational users
16 and did not harvest any fish by any -- I'm sorry, the
17 majority were recreational users. Fall did not find any
18 fish, harvest of fish by Kenai Peninsula residents from
19 Tuxedni Bay in 2002/2003. Again, one year of study. But
20 at this point we don't have a lot of indication that
21 there's much use going on today.

22
23 The effect of this proposal, it's unknown
24 how much this proposal, if passed, would effect how much
25 giving a positive customary and traditional use
26 determination would have on the resources. The deferred
27 proposals have not been considered. If we gave C&T and
28 the parallel sort regulations were maintained, there
29 wouldn't be any effect, because it's what people are
30 doing today since all residence are able to take fish at
31 this time from around the -- there's no determination,
32 and all residents can take fish. So in essence this is a
33 narrowing -- we're narrowing from all rural residents to
34 a specific group of users in the Cook Inlet area. But it
35 really is unknown, and I think that's the big issue and
36 what people have to grapple with.

37
38 The study done by Fall documented very
39 little harvest today in the Cook Inlet area from Federal
40 public waters by residents of the study communities with
41 the exception of Hope and Cooper Landing. So there isn't
42 a lot of harvest going on there, but the question is, if
43 regulations change, would there be more and that's the
44 unknown, if we had different seasons, different methods
45 and means, different allocations.

46
47 It is not anticipated that the
48 communities of Hope and Cooper Landing would harvest fish
49 differently if they had a positive C&T determination,
50 because they already are able to harvest, being part of

1 that all rural residents for the State. So it's not
2 anticipated that that would change at this point unless
3 methods and means and -- had changed significantly.

4
5 The Cook Inlet communities that are not
6 included in the customary and traditional use
7 determination would not be affected, because they -- if
8 they were excluded, because they don't take their fish
9 from Federal public waters.

10
11 All of the communities in the Cook Inlet
12 area, except for Hope and Cooper Landing and Ninilchik,
13 harvest fish closer to their communities from State-
14 managed waters.

15
16 In terms of Tuxedni Bay, the effect of
17 the proposal, if they were given a positive C&T, there
18 are only one or two families living there. There would
19 not be much in effect and it would give those families a
20 positive customary and traditional determination for
21 salmon. It's unknown even how much salmon they can take
22 in Federal waters there. It's -- I've heard from various
23 people that it's fairly muddy water in that area, but
24 it's not anticipated that there would be much of an
25 effect having a positive C&T for them.

26
27 And that, Madame Chair, concludes this
28 lengthy analysis.

29
30 ACTING CHAIR GOTTLIEB: Thank you, Helen,
31 for a really thorough discussion and analysis. Do we
32 have questions from the Board. Charlie.

33
34 MR. BUNCH: Helen, did I understand you
35 correctly, you're saying that if this C&T was approved,
36 it would not add to the users of those areas?

37
38 MS. ARMSTRONG: No. Actually it -- right
39 now there's -- yeah. Yes, that's correct. Right now
40 it's all -- it's no determination, so that means that all
41 rural residents are eligible to take fish on the Kenai --
42 in the Cook Inlet area. So there's no -- there's a
43 narrowing, not an expanding of users.

44
45 ACTING CHAIR GOTTLIEB: Gary.

46
47 MR. EDWARDS: I think, Helen, just for
48 particularly my, I guess, information and knowledge,
49 would you kind of characterize from your standpoint what
50 constitutes a long-term consistent pattern of use?

1 MS. ARMSTRONG: You didn't warn me about
2 that one. I -- as you know, this has been a difficult
3 issue at times that we have dealt with, particularly when
4 we've done C&Ts for resources like muskox when they
5 haven't harvested the muskox for a long time. I think if
6 a group of people or a community harvest a resource of --
7 I mean, a long-term, we haven't defined what long term
8 means. That's never been something -- it's not in our
9 regulations. The Board has never in the past specified
10 what that means specifically, and I think the reason the
11 Board has done that is because they have wanted to have
12 some ability to address different situations specifically
13 so that we don't have -- we don't have a specific,
14 anything written down what constitutes long-term and
15 consistent. I think one of the key things to remember
16 about that factor is that it also says, a long-term
17 consistent pattern of use excluding interruption beyond
18 the control of the community or the area. And in this
19 case one could argue that the use has been interrupted
20 because of regulation, that they haven't been able to
21 take subsistence -- under subsistence regulations. So
22 it's hard to determine what would people harvest if --
23 what would have happened if we hadn't had the road built,
24 Kenai Refuge constructed, I'm not sure. I'm being rather
25 vague, but I think I need to stay that way.

26
27 MR. EDWARDS: No, I think you're giving a
28 good answer. Where does then within that, you know,
29 frequency and levels of use, I mean, is that a component
30 of trying to identify this long-term consistent pattern?

31
32 MS. ARMSTRONG: If you -- do you want my
33 personal opinion on this? I think that in a subsistence
34 community people harvest resources that they need, and
35 they don't always need something every year, but they
36 will harvest what's available to them. That's the nature
37 of a subsistence community, and a subsistence lifestyle.
38 And that -- for example, maybe a community doesn't take
39 sheep every year, but one year the caribou don't come
40 through, so then they really feel like they need to get
41 some sheep, and so they'll make that effort to hike up
42 the mountain to get the sheep. But they don't do it
43 every year. Does that mean that it's not part of their
44 subsistence use pattern? I think it is. And I think
45 that for some -- I mean, sometimes some resources aren't
46 harvested in large quantities. But if you're living off
47 of a diet of fish, you may want a little variety some
48 times, and so it -- I don't think that ANILCA says that
49 the amount that people take is important. I think the
50 fact that people harvest something, and it -- is what's

1 important. But that's my personal opinion.
2
3 ACTING CHAIR GOTTLIEB: Helen, I know you
4 didn't take the time to go through all eight factors with
5 us, but did you or the team of analysts who were working
6 on this C&T determination look at all six -- all eight
7 factors?
8
9 MS. ARMSTRONG: Yes, we did. And they're
10 in the analysis. All of them are.
11
12 ACTING CHAIR GOTTLIEB: Thank you. Any
13 other questions or comments for Helen. McKie.
14
15 MR. CAMPBELL: Hi. I appreciate. The
16 first thing, there was something you said that I just
17 don't think that I understood properly, and I was --
18 could you elaborate or just say what you said again about
19 the percentage of when you have 100 households in the
20 sample and they interviewed five, and there are 500
21 people or 500 households.....
22
23 MS. ARMSTRONG: Sure.
24
25 MR. CAMPBELL:in the community?
26
27 MS. ARMSTRONG: Sure. In Ninilchik in
28 the -- I'll just go through that with this information
29 again. Do you want me to.....
30
31 MR. CAMPBELL: Well, no, I.....
32
33 MS. ARMSTRONG:for Ninilchik
34 or.....
35
36 MR. CAMPBELL: I got the information.
37
38 MS. ARMSTRONG: Okay.
39
40 MR. CAMPBELL: But I just wasn't.....
41
42 MS. ARMSTRONG: Expansion?
43
44 MR. CAMPBELL:sure if you were
45 saying that if there were, say, 100 households in the
46 sample, and 500 households in the village, and there were
47 five households that answered a particular way, whether
48 that translated to a greater number or a greater
49 percentage?
50

1 MS. ARMSTRONG: Yes, according to Dr.
2 Fall, there were -- there were two studies done in
3 Ninilchik, and in both of them they studied 100
4 households. And in 1998 there were 527 known permanent
5 households, and in 2002 there were 577. And so, yes,
6 when -- in both of those studies when it says one percent
7 of households, it doesn't mean one household, one percent
8 of 100 being one. There's an expansion factor in there.
9 And if you want more information about that, I mean,
10 that's what I got from Dr. Fall. So that we're not just
11 talking about one household, we're talking about six
12 households, multiplied by 5.77.

13
14 MR. CAMPBELL: You're just saying that
15 one percent equals more than one household? That.....

16
17 MS. ARMSTRONG: That's correct.

18
19 MR. CAMPBELL: Yeah, that's what
20 percentage means. Okay. Fine. I'm sorry. I
21 misunderstood you to say something else, and was a little
22 confused mathematically there for a bit. If I might?
23 There was a good deal of discussion in the Dena'ina
24 earlier in the -- in your presentation, and you talked
25 about subsistence use in the Inlet and the mouth of the
26 Kenai River in the spring and summer, and upriver in the
27 fall, and in camps at Situk -- or, excuse me, at the
28 lake. And were those fish camps, hunting camps? There
29 was some fishing that occurred while hunting?

30
31 MS. ARMSTRONG: Yes. Yes, some fishing
32 occurring while hunting. But there were fish camps as
33 well.

34
35 MR. CAMPBELL: Okay. And did I also
36 understand that that population to the extent that it
37 remains now lives primarily in Kenai?

38
39 MS. ARMSTRONG: That's my understanding.
40 That's what Dr. Fall has told me. I think to say that --
41 I mean, people move around. They intermarry. You know,
42 that all the Dena'ina are in Kenai, I don't think that
43 would be a true statement. What percentage of people,
44 how much those traditional practices are still done
45 today, it's -- I think it's an unknown.

46
47 MR. CAMPBELL: Uh-huh.

48
49 MS. ARMSTRONG: I think to really be able
50 to connect the dots and say, these people are -- that --

1 and Ninilchik is the question. The people in Ninilchik,
2 are they doing what was done 100 years ago based on the
3 Dena'ina pattern, I don't know. I can't say that. You
4 can ask Dr. Fall what he thinks. I can't give a
5 definitive answer on that one.

6
7 MR. CAMPBELL: And then I guess my
8 question for, I mean, long-term consistent pattern of
9 use. If the Dena'ina are mainly living in Kenai, is what
10 they did relevant to what some other group of people who
11 are now living in Ninilchik or Hope or Cooper Landing are
12 doing?

13
14 MS. ARMSTRONG: Well, Hope and Cooper
15 Landing are definitely not -- those are communities that,
16 as I said in my analysis, they've come from the
17 homesteaders, gold miners, and I don't -- but they have
18 been here a long time, as has Ninilchik. Ninilchik's
19 been here a long time. The unknown is -- and I don't
20 think we should even make so much -- put so much
21 importance on are Dena'ina's uses -- I mean, are
22 Ninilchik's uses like the Dena'ina's. The Ninilchik
23 people are made up of a mixture of Alutiiqs, there's some
24 Dena'ina in there. You can ask them when they come to
25 talk what they consider themselves. I'm not an expert on
26 the -- on that area, and probably Dr. Fall is a better on
27 to ask these questions of. But my -- you know, the
28 question is, Ninilchik has been there a long time. Have
29 they been using the upper Kenai all this time. They have
30 maps that have shown that they have used the whole Kenai
31 Peninsula. Some people question the validity of those
32 maps. I don't know. You know, I think there's some
33 unknowns there.

34
35 MR. CAMPBELL: Okay. And just the last
36 question just for future reference, I have read this, but
37 could you refer me to the part of it, or perhaps the part
38 of your analysis that specifically speaks to long-term
39 and customary use by the residents of Ninilchik, Hope,
40 and Cooper Landing?

41
42 MS. ARMSTRONG: You mean in terms of
43 location?

44
45 MR. CAMPBELL: Yeah.

46
47 MS. ARMSTRONG: In terms of location,
48 because it's split up into long-term consistent pattern
49 of use, and that's just what they used, and then we talk
50 about where they use it. It's two different part I

1 believe if I have.....

2

3 MR. CAMPBELL: I just wasn't able to sort
4 out what was on Federal and what was on State waters from
5 the analysis.

6

7 MS. ARMSTRONG: Yeah. Right. 221 I
8 think if I have it -- I think I have that page memorized.
9 Ninilchik -- and Ninilchik is on 221, of where people
10 take. This is not -- but this is not long-term. This is
11 where people are harvesting today.

12

13 MR. CAMPBELL: No, I understand -- no, I
14 understand that. In fact, it's -- I found that. I was
15 looking for where there was a long-term consistent
16 pattern of use for residents of these three communities.

17

18 MS. ARMSTRONG: Okay. Hold on. When --
19 I have to find the.....

20

21 (Pause)

22

23 MS. ARMSTRONG: What I've done is, the
24 long-term consistent pattern of use section is on Page
25 204. And by establishing first of all Hope and Cooper
26 Landing and Ninilchik and the other communities that we
27 analyzed are there, and that they've been there the long
28 time. The one that we have an exception to, or the ones
29 we have exception to are the Old Believer communities.
30 They have not been there as long. So you've established
31 there they've been there a long time. You've also
32 established what they've harvested. That's established,
33 that -- you know, what they harvest, the salmon -- I
34 don't think there's any question about that.

35

36 The question is where have they
37 harvested. So you have to do a -- you have to look at
38 all of these factors together to get that picture. And
39 so then you have to look at the area of use. We don't
40 know definitively 100 years ago, 50 years ago, we don't
41 know where exactly people fished. And I'm not going to
42 tell you that we do, because we don't. We have some idea
43 where the Dena'ina went. We have some idea, you know,
44 some concept, we've got some maps that the Ninilchik
45 Traditional Council did of their long-time use area. I
46 don't -- you know, that they've used the whole Kenai
47 Peninsula. But something really definitive where we've
48 got some report that says people -- we have maps from
49 1940 of where people went, we don't have that. Nor do we
50 ever usually have that level of information for -- I

1 mean, I wouldn't say ever, but we often don't. We
2 actually have more information in this analysis than we
3 usually do, because we know specific streams, and I mean,
4 it's -- usually it's sort of some broad people go in this
5 area. It's not that specific. We have a lot more
6 specific information today, about what's happening today.
7 So you have to kind of -- you're painting a picture.

8

9 MR. CAMPBELL: Okay. Thank you.

10

11 ACTING CHAIR GOTTLIEB: Thanks very much,
12 Helen, I'm sure you'll be available for any further
13 questions then.

14

15 Okay. Were there written public
16 comments, Donald?

17

18 MR. MIKE: Thank you, Madame Chair.
19 Donald Mike, Regional Council Coordinator.

20

21 This morning I handed out a hand-out
22 dated January 11th to the Board. Public comments that
23 were published in the Board book, there were some
24 comments that were left out due to technical reasons.

25

26 But on your handout that went out this
27 morning that's dated January 11, 2006, 2007 Federal
28 subsistence written public comments, on the second page
29 we have comments from the Cooper Landing Advisory
30 Committee. And I understand that the Cooper Landing
31 Advisory Committee will present their comments to the
32 Board.

33

34 At the Southcentral Subsistence Regional
35 Advisory Council meeting in Kenai, we reached -- we
36 received additional written public comments from nine
37 members of the Ninilchik Tribe. It was a form letter
38 supporting FP06-09, and those individuals are Linda
39 Painter, Anita Roberts, Jean Steik, Leo Steik, Chris
40 Steik, John Steik, Michelle Cooper, Alvin Steik, and
41 Marianne Hoffsteder, all of Ninilchik, and requesting a
42 positive customary and traditional use determination for
43 residents of Ninilchik to harvest salmon, Dolly Varden,
44 trout, char, grayling, and burbot on Federal lands in the
45 Cook Inlet area.

46

47 Additional comments were written by
48 Marianne Hoffsteder that was included as part of the form
49 letter. She further states that I believe it's not fair
50 to allow us to harvest 50 or 75 kings when everyone else

1 can fish continually, even tourists. Kings have always
2 been our mainstay. They are our traditional mainstay.

3
4 And additionally we received written
5 comments last Friday from an individual, he's Mr. Tim
6 O'Brian. He states he lives out in Moose Point just
7 northeast of Nikiski, and it is a written form comment
8 from Mr. Tim O'Brian, and he writes, this fishery
9 proposal must be challenged. This is a zip code fishery.
10 It's not a long-term consistent use, traditional use
11 fishery. Any resident with an address residing in
12 Ninilchik, Cooper Landing, Hope will be eligible
13 regardless of this consistent traditional use. One of
14 the primary reasons for becoming a state was to regain
15 control over our natural resources. It is time for the
16 Feds to back off and let the State share our resources
17 equally. This zip code fishery is an unfair solution.
18 Reopen public beaches back to all Alaskan families to
19 gather winter food. I'm sending in additional
20 information. Hopefully this can be talked about at the
21 January 10/12 meetings.

22
23 And as an additional handout that was
24 part of this comment received by Mr. Tim O'Brian, he
25 submitted a petition to the Board of Fish requesting they
26 change the non-subsistence area determination within a
27 five-mile area of Moose Point on the eastern side of the
28 Cook Inlet district. So that's just an additional
29 documentation supporting his written public comment.

30
31 Thank you, Madame Chair.

32
33 ACTING CHAIR GOTTLIEB: Thank you,
34 Donald. Yes, Gary. Okay. With that we'll open the
35 floor to public testimony. We do have a number of folks
36 here to testify, and we'll aim for about five minutes
37 each. So the first person signed up is Anna Grant.

38
39 (Pause)

40
41 ACTING CHAIR GOTTLIEB: Hello, and
42 welcome back. If you'll -- we just need the microphone
43 on, please. Thanks.

44
45 MS. GRANT: Thank you. My name is Anna
46 Grant. I'm from Ninilchik. I was raised in Ninilchik.
47 My father is from Ninilchik. He's been in Ninilchik all
48 of his life. I've been to I think two of your guys'
49 Boards here at Anchorage. I've been to a few in the
50 Kenai Peninsula. Today I'm actually testifying, so

1 excuse me if I don't know what I'm doing.

2

3 I have four children. Me and my children
4 have been fishing all through Alaska. We have been up
5 through Sterling up to Cooper Landing, Snug Harbor. At
6 one point we even bought a motor home so we could go for
7 longer periods, you know, because they tend to smell
8 after a while. Boys, not fish.

9

10 You know, I have done this for, well, all
11 of my life. All somewhere between 30 and 40 is old I am.
12 That many years. I am expecting a granddaughter any
13 minute now, and I plan on taking her.

14

15 I have caught all different kinds of
16 fish. WE have caught the ones with the big fins on the
17 back. We went to Russian River. I used to go there with
18 my brother-in-law all the time until the prices there
19 actually became too high and he couldn't afford to take
20 me no more.

21

22 We have fished with fishing poles. The
23 kids have made their own poles. My father's taught them
24 other ways to fish with poles and, you know -- I've
25 fished a lot. I like fish. I actually -- I work with
26 the elders and I have had a lot of elders tell me, you
27 know, where they used to fish, and where to take my kids
28 to fish.

29

30 Thank you.

31

32 ACTING CHAIR GOTTLIEB: Thank you. Are
33 there some questions? Well, you mentioned you fish with
34 your family. Do you share it with other members of the
35 community?

36

37 MS. GRANT: Yes, we share with the
38 elders, with my aunts and my uncles.

39

40 ACTING CHAIR GOTTLIEB: Thanks. Any
41 other questions?

42

43 (No comments)

44

45 ACTING CHAIR GOTTLIEB: Thank you very
46 much then. Darrel Williams.

47

48 MR. WILLIAMS: Madame Chair, good
49 morning. Members of the Board.

50

1 I'd like to provide an option to option,
2 to try to make some things maybe go a little bit faster.
3 My colleague, Ms. DyrdaHL, has a PowerPoint presentation
4 that will address the survey information that we did. It
5 may be better that if everybody can see this information
6 first, probably before I testify. I think it will
7 provide everyone with a clearer picture of what we're
8 trying to address. Would that be okay?
9
10 ACTING CHAIR GOTTLIEB: That would be
11 fine, and do you need a few minutes to get that set up?
12
13 MR. WILLIAMS: I think we're all set up.
14 I believe the PowerPoint presentation is already set up.
15
16 ACTING CHAIR GOTTLIEB: Great, excellent.
17 Well, maybe we'll have Sarah goes next then.
18
19 MR. WILLIAMS: Thank you, Madame Chair.
20
21 ACTING CHAIR GOTTLIEB: Thank you for
22 suggesting that.
23
24 (Pause)
25
26 MS. DYRDAHL: Madame Chair, if I may, I
27 might exceed the five-minute time line. I'll do my.....
28
29 ACTING CHAIR GOTTLIEB: We understand
30 with the PowerPoint. That's okay.
31
32 MS. DYRDAHL: I'll do my best. And I
33 believe that Donald Mike handed out some -- like an
34 outline if you would like to follow along with that.
35
36 ACTING CHAIR GOTTLIEB: Yes, we have them
37 here.
38
39 MS. DYRDAHL: Okay. I'm here testifying
40 not as a user, but as an employee for Ninilchik
41 Traditional Council. My name is Sarah DyrdaHL. I was
42 notified of this need for additional data this fall just
43 before the Regional Advisory Council meeting, and so was
44 actually part of going and digging up these old surveys
45 that I'm going to be talking about today. And hopefully
46 it will provide some information for a little bit of
47 background knowledge at least for what we have.
48
49 If I could go to the next slide. Thank
50 you.

1 So again I'm going to talk about the two
2 surveys that Ninilchik Traditional Council conducted
3 through a BIA grant. They did the first one in 1994, the
4 second in 1999. The 1994 survey covered lifelong use
5 patterns, and the original survey, the folks that
6 conducted the original survey are no longer with the
7 council; however, dated September 7, 1994 Taylor
8 Brelsford and Helga Eakon, I believe with the BLM, came
9 down to clarify methodologies on that 1994 survey. I do
10 have a copy of that report that I can pass around.
11 That's basically the best knowledge of the survey
12 methodologies that I have. Again I'll go into that a
13 little bit later.

14
15 I'll also talk a little bit about the
16 regulatory history, and how it's in our opinion has
17 impacted the use. The areas of the use that occur for
18 the Ninilchik folks, and then also the cultural
19 implications that come into play with this.

20
21 If you'd go to the next slide, please.
22 Thank you.

23
24 Specifically, the 1994 subsistence survey
25 surveyed 25 voluntary households. The goal of this
26 survey was to survey as many users in Ninilchik as
27 possible. This included tribal members and lifelong
28 residents, although they may not be affiliated with the
29 tribe. But they were the core subsistence users. The
30 folks made an effort to include those in their survey.
31 Again this documented lifelong subsistence patterns, and
32 this was -- according to this report, it was just to
33 basically paint a picture of traditional patterns and
34 they felt that if they only included the recent patterns,
35 that those patterns were diminished by restrictive
36 regulations and that that would have affected the picture
37 of subsistence.

38
39 The survey itself, I gave you a final
40 copy at the January -- or, excuse me, the November winter
41 meeting, and it documented numbers and species of fish
42 harvested within that year. It was an average yearly
43 harvest amount, and then survey respondents were also
44 asked to circle the areas that they harvested in. They
45 were provided mylar overlays and maps of the Cook Inlet
46 region, and then they went through and surveyed those
47 areas -- or circled those areas where they had caught
48 chinook salmon, salmon species in general, and then non-
49 salmon species were all identified on the maps.

50

1 And again the mapping resources, they
2 tried to -- the people that did the survey tried to
3 maintain relative consistency with Fish and Game survey
4 methods, and so -- with the mapping, as far as the
5 mapping goes. And so they followed those methodologies
6 which were published by Wolfe in 1983 and basically just
7 using the same mylar overlays on maps and folks circled
8 the areas where they harvested and during a specific time
9 period.

10
11 So that was a little bit of background on
12 the '94 survey methodology.

13
14 And if I could have the next slide,
15 please.

16
17 In 1999 the survey design and the way
18 that they carried out the survey was pretty much exactly
19 the same excepting it was to document the change in use
20 from lifelong to the past five years. So the '94 survey
21 documented lifelong use, the 1999 survey documented use
22 from 1995 through 1999. And the numbers there were
23 yearly averages for those five-year periods. they were
24 averaged out. And so this would be focusing on long-time
25 use patterns, but contemporary uses. But again the same
26 amount of -- the same type of people were targeted: the
27 tribal members, the subsistence users in the community.
28 They were able to survey 20 households for this survey.
29 And again the mapping, they used the mylar maps of the
30 Peninsula to map the areas used.

31
32 The next slide.

33
34 This is one of the slides that I
35 presented both at the Regional Advisory Council meeting
36 at the winter meeting, and this is the 1994 fin fish
37 harvest on Federal public lands. We got -- being as it
38 was short notice, we didn't have a lot of time to
39 prepare, so I was able to just basically like Helen had
40 described, used the wildlife areas, the game management
41 units and document the areas that are -- Federal would be
42 areas B, D and F, and then I just went through and looked
43 at the maps where the participants had selected that they
44 used. And the percentage of households is what's
45 displayed on the graph right there -- or the table right
46 there.

47
48 If I can -- the next slide, please.

49
50 This is the same type of map for 1999,

1 and again this is all information that's been presented
2 before. And I think I failed to mention that the brick
3 colored bars are salmon and the orange colored bars are
4 non-salmon. And again it's just a percentage of
5 households using areas B, D, and F respectively.

6

7 Next slide, please.

8

9

10 To further break it down after there was
11 some concern about how well that information was -- or
12 how specific that information was, basically I just
13 scanned in the actual map into this, so this is an actual
14 picture of the map that was circled by a respondent. And
15 you cannot see this on this screen. I didn't realize it
16 would be so far way, so I apologize. But I don't know if
17 it came out a little bit better in the handout, but on
18 the map on the left-hand of the screen, there's salmon,
19 king salmon or chinook, and non-salmon species. The
20 salmon, or the chinook salmon is in red, the violet is
21 just salmon species in general, and the blue, the dark
22 blue, is non-salmon. And then the column on the right is
23 the average number that they harvested in pounds. So --
24 and this is edible weight. I don't know why they chose
25 that, but that's what they chose. So, for example, for
26 chinook salmon, which is -- again you can't see it on the
27 map, but there are red areas circled on the map, and
28 there were 25 pounds of edible weight harvested yearly.
29 And again it just -- it goes on down the line for each
30 species. They didn't break it down, the mapping, for
31 each species again. It was just the three different
32 maps, and I just compiled them to copy them onto one
33 sheet. And I do have these actual hand-out copies that
34 you can look at.

35

36 Next slide, please.

37

38 This is another mapped area. And I don't
39 know if I mentioned, but of the 20 surveyed households,
40 five of those surveyed actually selected areas on Federal
41 public lands, and those are the ones that I've included
42 today in this PowerPoint.

43

44 And so again the areas are mapped. You
45 can see this one a bit better. But it goes up into the
46 Skilak Lake area. If you can see up into here a little
47 bit, there's Skilak Lake. Kenai would be over in here,
48 and then Ninilchik is down in here-ish. I can hardly see
49 it, so -- and again, you know, the column on the right is
50 the number in pounds of edible weight that was harvested
51 each year.

1 Next slide, please.
2
3 And again these are information that is
4 information that is available to the Board, you know, for
5 closer review, but I guess I just wanted to make the
6 point that individuals circled these areas, which
7 included Federal public lands as areas that they
8 harvested between 1995 and 1999. These are the species
9 that they harvested during those years.
10
11 Next slide, please. And the next slide.
12
13 So, just more of the same, but these are
14 the actual individual surveys.
15
16 Next slide, please.
17
18 I then further broke it down into just
19 major drainages and personages of use by species and
20 major drainages. And this is just information that I
21 compiled from the maps themselves. So in the Tustumena
22 and Kasilof River drainages, 15 percent of those surveyed
23 in 1999 harvested salmon, 10 percent harvested non-
24 salmon, and 15 percent harvested chinook salmon.
25
26 The numbers get a little lower as you go
27 up further into the Peninsula up into the upper Kenai and
28 Kenai Lakes. And then as you get to the Skilak Lake.
29 And again the percentages are reflective of the total
30 numbers of the individuals or the households surveyed,
31 excuse me.
32
33 Next slide, please.
34
35 This is the 1994 drainage use by species.
36 And I think it's really interesting that the numbers are
37 a lot higher. And again I'll remind you that 1994 was a
38 document of life-long use patterns, not just contemporary
39 patterns. But these numbers and the areas surveyed were
40 pretty noticeably higher when I was going through them,
41 you know, to actually make these tables. And I just -- I
42 thought that was really interesting.
43
44 Next slide, please.
45
46 So in general for the survey conclusions,
47 the Federal public lands have been important for
48 subsistence harvest for both resident and anadromous
49 fishes. And that there definitely has been a use by just
50 a core subsistence user group, not all residents surveyed

1 harvested on Federal public lands, but there definitely
2 were those who did. And then the areas and amounts of
3 use have gotten smaller comparing the lifetime versus
4 contemporary use.

5
6 Next slide, please.

7
8 And Helen already pointed this out, and I
9 just thought it was another important point and I didn't
10 want to belabor it, but the regulatory history is
11 something that I think that the Council really needs to
12 think about. And this is just a few of the things that
13 I've pulled out, the things that I thought were major.

14
15 So in the 40s they created the Kenai
16 Moose Range, which encompassed a huge part of the Federal
17 public lands, but Ninilchik is surrounding -- or close
18 to, rather. In 1952 the gillnet restrictions were made
19 in freshwater so they could no longer harvest --
20 subsistence harvest in freshwater on Federal public lands
21 with gillnets. In 1973 the snagging became illegal, so
22 they couldn't use that method any longer. And in 1977
23 the upper Cook Inlet adopted a comprehensive management
24 policy which allocated early chinook and late coho stocks
25 to recreational fishing.

26
27 And in the executive summary, it's pretty
28 clear, at least I thought, in the verbiage that as sort
29 of as time went on, the space of use and the areas
30 allocated with the regulations got to be less and less.
31 And I think the last there was that then -- and then
32 residents turned to using beaches for gillnetting. And I
33 just -- again I just wanted to remind the Council that --
34 or the Board, excuse me, that that's definitely a factor
35 for these people are these regulations.

36
37 And I think I'm ready for the next slide,
38 please.

39
40 And one of the -- I guess one of our
41 eight factors or our eight criteria that's kind of in
42 question are the areas of use. And from all of the -- I
43 mean, I'm not a user in this area. I'm not even a
44 native. But all of the stories that I've heard, and you
45 will hear more today, are about people going out and
46 harvesting, not going out and fishing for just trout, but
47 they go out and they hunt moose, they go fishing or
48 whatever's near the area that they're hunting in, and,
49 you know, they might even be berry picking or mushroom
50 harvesting or getting some plants or something. And so I

1 think that -- and it's kind of intuitive for me that as a
2 resource user, that you would go out and you would
3 harvest multiple resources, whatever you needed. And so
4 that's just a point that I thought was important.
5

6 And then I've also been told over and
7 over of the many historical areas that are no longer used
8 because of conflicts with other recreational -- or other
9 users, those being recreational users, of course. And
10 the areas are just too over-populated, and it's just --
11 it's -- you know, it's like on the Russian River, it's a
12 crazy place down there you know, so those are things that
13 really affect these people. And, you know, who the
14 resources are allocated to, and where the priorities are.
15

16 So and again the areas of use have
17 diminished with increased regulations and closures, and
18 that was what I was trying to point out in the last
19 slide.
20

21 (Chair Demientieff returns to meeting)
22

23 MS. DYRDAHL: If we can go to the next
24 slide, please.
25

26 This is the last point that I wanted to
27 make, and again it's the regulations shaping use over
28 time. And then also that the culture and the history of
29 this people, which is in question, but it's being lost
30 with all of this -- with all of these regulations, with
31 the prohibiting of the use. And then also, you know,
32 what seems to be fundamental to these people is the right
33 to do it. Not everybody is going to do it, but there are
34 the certain -- or most of them actually feel that they
35 have the right to go out there and do it if they so
36 choose, because this is their aboriginal land, and their
37 resources.
38

39 Last slide, please.
40

41 So again just general conclusions. But
42 the historical and contemporary uses were documented in
43 Ninilchik surveys, and they thought it was important
44 enough, you know, to do a study or a survey rather, and
45 to document those. And the regulations and
46 prioritization of other uses have -- or other groups have
47 impacted use. And that there is a small remaining group
48 of people, and you can see, not all of the '99 people
49 surveyed, but there a percentage of those that utilized
50 these Federal fisheries opportunities, and again the

1 cultural significance of that.
2
3 And I think I'll close there and if there
4 are any other questions or clarification, I'll take those
5 now. Thank you.
6
7 ACTING CHAIR GOTTLIEB: Thanks. Do we
8 have some questions for Sarah. Charlie?
9
10 MR. BUNCH: Yes. Sarah, thank you for
11 that presentation. And hopefully I can shed some light
12 on some of the Commissioner's questions he had. This
13 survey that you did, I know that was done back in '94 and
14 you said it was done by 25 households. Those were -- can
15 you tell me what the breakdown was between tribal members
16 and nonmembers?
17
18 MS. DYRDAHL: Through the Chair. I don't
19 know what the breakdown was between tribal members and
20 nonmembers. I would imagine that there would be more
21 tribal members versus long-term households. But that's
22 just a guess though.
23
24 MR. BUNCH: And I'm assuming that the old
25 survey was from the Ninilchik area, not going up to Clam
26 Gulch or Happy Valley, any of those places, just the
27 immediate.....
28
29 MS. DYRDAHL: Correct.
30
31 MR. BUNCH:Ninilchik area?
32
33 MS. DYRDAHL: Yeah, both surveys were of
34 Ninilchik itself, of residents in Ninilchik.
35
36 MR. BUNCH: Okay. These -- the people
37 that participated in the survey, did they say in the
38 survey when they started using, or how far back does
39 their use go? Do some of these areas up.....
40
41 MS. DYRDAHL: No, they did not.
42
43 MR. BUNCH: Okay. Just historically
44 was.....
45
46 MS. DYRDAHL: There were no -- there was
47 no indication in the survey of beginning dates.
48
49 MR. BUNCH: Okay. But it was -- as far
50 as you know, it was a cross section of the community, it

1 wasn't all tribal members?
2
3 MS. DYRDAHL: Correct.
4
5 MR. BUNCH: Thank you.
6
7 ACTING CHAIR GOTTLIEB: Thanks. Other
8 comments or questions. Gary.
9
10 MR. EDWARDS: Sarah, if we could go back
11 to I guess it was the slide 4 which shows the 1994 fin
12 fish harvest on Federal public lands?
13
14 MS. DYRDAHL: Uh-huh.
15
16 MR. EDWARDS: I'm trying to look at that
17 map. How far north does that go that people circled that
18 would -- indicated that they hunted or fished or
19 harvested I guess within that area?
20
21 MS. DYRDAHL: There were people in --
22 1994 or 1999?
23
24 MR. EDWARDS: Well, I'm looking at --
25 it's '94 my understanding is where they used the mylar
26 and they were asked to circle the areas?
27
28 MS. DYRDAHL: In both years they used
29 that.
30
31 MR. EDWARDS: Right. And I was trying to
32 look on the map. Does that go all the way north past
33 Anchorage?
34
35 MS. DYRDAHL: Okay. So if you're
36 referring to slide 4, the 1994 fin fish harvest on.....
37
38 MR. EDWARDS: Right.
39
40 MS. DYRDAHL:Federal public lands
41 where it shows the map?
42
43 MR. EDWARDS: Right.
44
45 MS. DYRDAHL: That one.
46
47 MR. EDWARDS: Right.
48
49 MS. DYRDAHL: So this map right here is
50 -- for a point of reference, this is Nikiski.

1 MR. EDWARDS: Okay.
2
3 MS. DYRDAHL: Kenai would be here. This
4 is Skilak Lake. This is Tustumena Lake, and Ninilchik is
5 here. So this is up -- up here is -- I mean, Anchorage
6 is I guess up here. But I don't know if that answers
7 your question.
8
9 MR. EDWARDS: So it stays within the
10 Peninsula?
11
12 MS. DYRDAHL: Correct. Yeah.
13
14 MR. EDWARDS: Okay. All right. Another
15 question, on the slide dealing with the periods of
16 harvest and I think that was where in the 1994 where you
17 have the breakdown on percentage of salmon that were
18 harvested. That's towards -- that would be.....
19
20 MS. DYRDAHL: Are you about the.....
21
22 MR. EDWARDS: It's the 1994 drainage use
23 by species.
24
25 MS. DYRDAHL: Correct. Okay.
26
27 MR. EDWARDS: Do you have an actual --
28 one of the things I found interesting about that was that
29 it showed that more salmon were harvested in the upper
30 Kenai than were harvested on the Kasilof drainage. And I
31 guess I'm just wondering, you would assume that people
32 would -- if you had salmon right at your door, that you
33 would be fishing on the Kasilof or at a minimum at the
34 lower end of the Kenai where the fish were much fresher
35 coming in, and probably more abundant and easy to catch.
36
37 MS. DYRDAHL: Right.
38
39 MR. EDWARDS: Why do you think it shows a
40 large -- I mean, what it would appear is that people
41 prefer to go fish the upper Kenai for salmon as opposed
42 to fishing the Kasilof or the lower Kenai.
43
44 MS. DYRDAHL: You know, that's an
45 interesting point, and I hadn't actually paid much
46 attention to it before you brought it up. I don't know
47 what historical runs were like on any of those drainages,
48 and if the upper Kenai has been -- you know, if maybe if
49 they got more bang for their buck so to speak on the
50 upper Kenai. I don't know honestly. I don't know a lot

1 about the historical salmon runs. I imagine that they
2 would go where there were -- you know, and there's also
3 the -- there's a question about whether or not the
4 Ninilchik folks I guess are Dena'ina or not, but these
5 people did travel. At least my understanding is that
6 they did travel, you know, east on the Peninsula to go
7 and harvest moose and things. And so maybe that was a
8 good over-all area. I know that they found a lot of
9 camps up there. The Stepanka camps apparently. I don't
10 know. I'm speculating. But that's just a guess.

11
12 MR. EDWARDS: Just a couple other quick
13 questions. Has there been any collaboration with Dr.
14 Fall to put this information in the context of his study?

15
16 MS. DYRDAHL: There has not.

17
18 MR. EDWARDS: Okay. And then I guess my
19 final question is the methods, and I know these reports,
20 there's kind of not a lot of history behind kind of
21 putting the study plans together and all of that, but
22 were you aware of any kind of review of the study plans
23 and either by outside experts or peer reviews of either
24 one of the two studies, and a review of the results?

25
26 MS. DYRDAHL: Again, I don't know
27 specifics, but my understanding is that the person who
28 actually oversaw the grant from the BIA, he had quite a
29 -- it sounded like quite reasonable qualifications, and
30 so -- he was a natural resource specialist. He was Dr.
31 Don Tomlin. I don't know who that is. But I would
32 imagine that if he were the grant oversight, that he
33 would be somewhat -- have some input into it, you know,
34 and monitoring the, you know -- and he wrote a fantastic
35 write-up on, you know, the job that Ninilchik and done
36 and he was very impressed with the work that they had
37 done on the surveys. So that's the indication I have.

38
39 MR. EDWARDS: All right. Thank you very
40 much.

41
42 MS. DYRDAHL: Uh-huh.

43
44 ACTING CHAIR GOTTLIEB: Thank you. Other
45 questions.

46
47 MR. BUNCH: Sarah, I just had one. You
48 said that Taylor Brelsford gave you some kind of
49 technical assistance on that. Which study was that?

50

1 MS. DYRDAHL: Through the Chair again. I
2 was only given a copy of basically a trip report. Again,
3 well, in 1994 that some agencies had some questions about
4 the methodologies behind the survey as they weren't
5 included with the survey results. And so I was just
6 given a copy of this trip report which highlighted some
7 of the key points that they thought were important as far
8 as methodologies go, and I do have a copy of that report
9 that you guys could look at. And again it references
10 using Fish and Game survey methods for the mapping. And
11 I do have a copy of an example of that as well if you'd
12 like to see it.

13

14 MR. BUNCH: Thank you.

15

16 ACTING CHAIR GOTTLIEB: Sarah, if you
17 would, we'd certainly like a copy of that for the record,
18 and we'll try to have copies made so Board members can
19 take a look at it after we break.

20

21 MS. DYRDAHL: Okay.

22

23 ACTING CHAIR GOTTLIEB: McKie, did you
24 have a question.

25

26 MR. CAMPBELL: Sarah, I appreciated your
27 presentation, and the work you all did to put it
28 together, and I don't think there's any doubt you showed
29 clearly that there's a high level of use of fish and
30 wildlife in Ninilchik, and that it's very important to
31 you.

32

33 Was there any information passed on in
34 the gathering of the study of how folks got to Tustumena
35 or Skilak Lakes before there were roads there, or did it
36 go back that far?

37

38 MS. DYRDAHL: There was no specifics in
39 the actual survey. And maybe some of the actual tribal
40 members here could answer those questions.

41

42 MR. CAMPBELL: Okay.

43

44 MS. DYRDAHL: But I have heard, you know,
45 a lot of stories about dog teams. People had dog teams.
46 I'm not sure as far as, you know, snow shoes. I mean,
47 there's a variety, you know, for winter months. Summer
48 months, I -- like I said, I'd pass that off to some of
49 the other folks here who are going to testify today.

50

1 MR. CAMPBELL: I appreciate that. And
2 I'm absolutely certain that when you're engaging in one
3 type of subsistence activities, there's often other types
4 of incidental taking that occurs. But was there any look
5 in the study to see how traveling to a lake over 70 miles
6 away or so fits into the third of the eight factors,
7 which is a pattern of use consisting of methods and means
8 of harvest which are characterized by efficiency and
9 economy of effort and cost, conditioned by local
10 characteristics when pretty much the same thing is
11 available at Ninilchik's doorstep?

12
13 MS. DYRDAHL: Could you rephrase the
14 question?

15
16 MR. CAMPBELL: Sure. Sure. No problem.
17 I'm just trying to.....

18
19 MS. DYRDAHL: I'm just trying to get the
20 main point out of that. Sorry.

21
22 MR. CAMPBELL: No problem. I'm just
23 trying to say the third factor of the eight
24 characteristics is basically efficiency.

25
26 MS. DYRDAHL: Sure.

27
28 MR. CAMPBELL: That subsistence is
29 characterized that you do it however in a way that's most
30 efficient. And so I'm just trying to understand how
31 going somewhere a long way away when the exact same
32 resources are available on your doorstep fits that.

33
34 MS. DYRDAHL: Again so -- right. And I
35 appreciate that. And again this is speculation, but as
36 an example of just what I can see, foresee right now, is
37 the streams that are local to Ninilchik, the Deep Creek,
38 Ninilchik and the Anchor River are the most nearby
39 streams. But the runs there are a lot smaller, and you
40 don't see the size of fish, the diversity of fish as you
41 do on some of the Federal public waters. And again the
42 seasonality of it. There's just a lot broader -- there's
43 a lot more abundance elsewhere. And again coinciding
44 with gathering of other resources. Not all resources are
45 available right there in Ninilchik. And I don't know
46 what kind of competition there was for the resources that
47 were actually there. I really don't know. But again
48 it's kind of -- I would punt that off to some of these
49 other folks.

50

1 MR. CAMPBELL: Sure.
2
3 MS. DYRDAHL: But I'm guessing just sheer
4 availability and I know that the other areas of the
5 Peninsula are a lot more diverse, or abundant that
6 Ninilchik.
7
8 MR. CAMPBELL: All right. Thank you.
9
10 ACTING CHAIR GOTTLIEB: Thank you. I'm
11 sure you're available if more questions come up. We
12 would like to get ahold of the copy of the report.
13
14 And I guess we will take a break, but let
15 me just report on the Chairman's situation. He did get
16 back from his doctor's appointment as you saw, and he's
17 been told to have his feet up. And because -- well, we
18 thought of perhaps tying him in by teleconference,
19 because he did not hear the beginning of this discussion,
20 he will not be available for the rest of this proposal.
21 Tomorrow morning we will set up a telephone hook-up for
22 the following proposal or him to participate as a Board
23 member.
24
25 So why don't we come back in about 10
26 minutes, about 25 to four. We still have a lot of
27 discussions and a lot of questions. Thank you.
28
29 (Off record)
30
31 (On record)
32
33 ACTING CHAIR GOTTLIEB: If we could come
34 back to order, please. Thanks.
35
36 And one further word of explanation.
37 Sometimes you've seen some of the Board members step
38 aside from their seat and have their Staff Committee
39 members sit. And so I know there's been some questions
40 about why Mitch's Staff Committee representative, Carl
41 Jack, isn't sitting here, and that's because of his
42 special appointment, which I will let the Solicitor,
43 Keith Goltz, explain.
44
45 MR. GOLTZ: Okay. My name is Keith
46 Goltz. I'm in the Solicitor's Office, and I guess I've
47 been explain the Federal law of delegation in 25 words or
48 less.
49
50 Basically the Federal law requires that

1 delegation be express and that it be in line. Those
2 requirements are easily satisfied when we have regional
3 directors sitting up here and they simply ask one of
4 their own subordinates to move to the table.
5

6 It's more problematic with Mitch, because
7 Mitch does not have line authority. He's an appointment
8 made by the Secretary, and is a part therefore of the
9 Secretary's office. Carl Jack is an employee of the Fish
10 and Wildlife Service. So what we lack there is line
11 authority. If we have a continuing problem and needed to
12 fill Mitch's chair, what we would have to do is look to
13 the Secretary, probably shanghai Ron McCoy or somebody
14 else to fit in that chair, but we wouldn't have two
15 employees of the Fish and Wildlife Service up here.
16

17 ACTING CHAIR GOTTLIEB: Thank you, Keith.
18 And here's a general plan since I know many of you are
19 concerned about the timing of this proposal as well as
20 the timing for the whole meeting. We will definitely
21 make it through the public testimony today, and Darrel,
22 you're up next then please. If possible, and we're not
23 going to rush it, but if possible, we would like to also
24 hear from Regional Advisory Councils, Interagency Staff
25 Committee, and the Department. And then start tomorrow
26 morning most likely at 8:00 o'clock since we still will
27 have a long day tomorrow, with Board discussion and
28 deliberation. But let's see how we're doing and how
29 tired everybody is in an hour or two.
30

31 Darrel, whenever you're ready. Thank
32 you.
33

34 MR. WILLIAMS: Thank you, Madame
35 Chairman. My name is Darrel Williams. I'm a
36 representative of Ninilchik Traditional Council.
37

38 And to kind of start off, I think I'd
39 first like to express that I hope Mitch gets better, and
40 I hope he's filling well. That's a real hard thing to go
41 through.
42

43 Another thing I thought I'd start off
44 with is I believe the Commissioner had a question about
45 Cooper Landing, and I can answer that question for you if
46 you'd like. Residents of Ninilchik, it was settled about
47 -- in the 1800s, and they engaged in the Russian fur
48 trade, so in order to be in this trade, to be able to
49 have any kind of economic feasibility, they had to be
50 able to go get fur. And it's a fairly common practice

1 even today that trappers will use the rivers as
2 transportation systems. The beach is actually a real
3 convenient transportation system down there, too.

4
5 But while they were chasing furs, they
6 would go through clear up to Cooper Lake, and it was
7 settled by Coopers who is one of the long-term families
8 from Ninilchik, and therefore where the name comes from,
9 Cooper Lake and Cooper Creek. And these people would go
10 up there and they would trap. And then sometimes, it's
11 really interesting, because when they would take a dog
12 sled up there or walk or however they chose to do it, if
13 the spring thaw were to come while they were trapping,
14 it's a long walk home.

15
16 And in Cooper Landing you have an
17 archaeological district. One of the most known sites is
18 called the Squalatanu (ph) site. I actually got to work
19 on that a little bit when I was in college. It's a
20 really neat site, and it goes clear back from -- it's a
21 barabra from when you -- they were very neat people, and
22 they would use one particular exit for cash. And it
23 would go from stone and bone tools at the greatest depth.
24 And as you come in, you start to see things like beads in
25 trade. Then you start seeing things like flint from
26 flintlocks when more trade. And then you start seeing
27 more and more common up-to-date things where these
28 temporary homes were used by these people there in Cooper
29 Landing. And that's the archaeological site in Cooper
30 Landing. And I hope that kind of helps clarify some of
31 it.

32
33 When the Russians came to Ninilchik, it
34 was a very profound change for Aleuts who lived there.
35 They had -- in a sense, they had to engage in the
36 economics that the Russians brought with them. They
37 brought the Russian Church, they brought all kinds of
38 different things that were new to these people.

39
40 In order to maintain that relationship,
41 they had to be productive people and do something to
42 produce, and the fur trade was one of the big deals. So
43 I hope that helps clarify a little bit of stuff.

44
45 Did anybody else have any questions for
46 Ms. Dyrdaahl that maybe wasn't really clear that I could
47 help answer before I get going?

48
49 (No comments)

50

1 MR. WILLIAMS: No? I'm getting laughed
2 at.
3
4 ACTING CHAIR GOTTLIEB: Excuse me,
5 Darrel. John.
6
7 MR. LITTLEFIELD: Thank you, Madame
8 Chair. Earlier there was a comment about how come there
9 was more salmon upriver and I know in my district I could
10 certainly answer what that would be for. Those fish that
11 were farther up and in the lakes are a different style of
12 fish. They are dry, the oil content is down and they
13 were prized for pre-contact. We had to dry everything to
14 its driest state. We couldn't have any spoilage on it.
15 I think some of that may have been lost.
16
17 Maybe you could comment on that because
18 we would wait until later in the year years ago to
19 harvest fish in October and November and later in
20 Southeast. Now it's real common to do it in the
21 summertime because we have the new freezers and canners
22 and stuff that allows us to fish even out in the ocean
23 and take those, but a long time ago in our area the
24 farther up you went the better for drying fish. Maybe
25 you could comment on how that fits in with using the
26 upper Kenai as opposed to fishing right at the river's
27 edge.
28
29 MR. WILLIAMS: Madame Chairman, John.
30 It's actually very interesting and actually some of the
31 other people will testify on this, but the quality and
32 type of fish that run in Kasilof are small fish. They're
33 not very big fish. When these people had to travel to
34 ensure things like trapping and activities like that,
35 they didn't want to spend a lot of time and effort, do a
36 lot of work for a little result, and that's part of the
37 reason that they move that way.
38
39 Another interesting point that comes up
40 is the connection between the Aleut people of Ninilchik
41 and the Dena'ina. If you look at, for instance,
42 artifacts that are from the Aleut people, you'll see that
43 they use a lot of oils. We don't really get like
44 hooligan down in Ninilchik, but they do in Kenai. There
45 was trade that went there, too. When they actually
46 harvest this hooligan and they hollow out their pots and
47 they would let this hooligan rot, so to speak, and they
48 would harvest that oil, those oils were used for cooking,
49 those oils were used for lamps. They would make the
50 stone lamps, the rounded-bowl lamps.

1 It's a real subsistence lifestyle of
2 trying to get as much as you can with the least amount of
3 effort. If you can go and you can trade, you can trap
4 and you can harvest food for the winter, that's probably
5 a better alternative than just going to be able to
6 harvest a little bit of food. Now that is historically
7 the things that have happened.

8
9 Today, honestly, when you talk to the
10 elders and you ask them the same question, yeah, they
11 don't want those scrawny little fish out of Kasilof, they
12 want the big fish, they want the good fish, they want the
13 kings out of the ocean or they want the kings in the
14 upper Kenai. That's where the good fish came from. It's
15 a big deal to these people. It used to be that the first
16 king salmon that was harvested was distributed throughout
17 the community. Everybody got a piece of fish. Well,
18 needless to say, that doesn't happen very often anymore.
19 It's very hard to do.

20
21 So there's a lot of hard feelings that
22 come along with that too. I wish some of the elders
23 could have made it to help maybe describe some of this.
24 There are still a few people who can tell you the stories
25 about walking down to Homer on the beach because that was
26 how you had to go. Most of these people are very
27 elderly.

28
29 It's also interesting that when you look
30 at the survey numbers that Sarah presented, part of that
31 decline that you see in use is because these elders are
32 dying. It's a real thing. We all have to remember that
33 subsistence is more than a number, it's a lifestyle.
34 When we look at the regulatory constraints that's been
35 put on these people, it has a profound effect and it's a
36 big deal. That's why I'm here.

37
38 ACTING CHAIR GOTTLIEB: I think, John, if
39 we could, unless you have a quick follow up question,
40 have Darrel give his testimony and then go for questions.

41
42 MR. LITTLEFIELD: Madame Chair. These
43 were questions I wanted to ask when the previous speaker
44 was up there and I believe he can answer them. I don't
45 know how much latitude you can give me. It came about
46 because some of the questions that were asked to her she
47 was unable to give an answer to that perhaps we could
48 flush out here, but I don't know what your latitude is,
49 Madame Chair.

50

1 ACTING CHAIR GOTTLIEB: Okay. One more
2 question.

3
4 MR. LITTLEFIELD: All right. You touched
5 on it just a second ago. I prefer to call it a way of
6 life as well as lifestyle, but one of the things you just
7 touched on that the previous speaker brought up and the
8 State had a question about, economy of scale, going up
9 the rivers and stuff like that. You just mentioned a
10 little bit about it. I'll give you an analogy in the
11 Tlingits, is that our traditional area long ago was from
12 the Copper River to California and we would go into the
13 Yukon River. I think that perhaps you could fill us in
14 on maybe what happens in the Kenaitze. It was nothing to
15 walk to one of those lakes. I mean I think you would
16 walk anywhere you felt like. You didn't have to be to
17 work on Monday. If you had to do these things, that
18 economy of scale should be tempered somewhat by the fact
19 that if that's where it was, that's where you went to do
20 those things and then you brought them back home. So if
21 you could comment about the historical use of walking
22 everywhere on that Kenai Peninsula, I would think, as
23 well as Homer, as you just mentioned.

24
25 MR. WILLIAMS: Madame Chair. Thank you,
26 John. I'd absolutely like to comment on that. More
27 recently, let's start with that before we go
28 historically, Seldovia essentially was a hub down there
29 before Homer really was. It was no big deal for these
30 people to get in a boat and go to Seldovia and Seldovia
31 is a pretty good ways away. It's further than Kenai. So
32 that's probably a fair way to describe it. The Ninilchik
33 Tribe has tribal boundaries that were established of
34 where these people had nomadically went and did things.

35
36 If you go a little further back in
37 history, a little bit of anthropology, just sit back and
38 look at that, you'll find that the Aleuts and the
39 Tlingits fought a lot. It was a very common thing and
40 it's well documented in history. You look at where the
41 Aleuts and Tlingits live, those people really traveled.
42 It's no joke. I'm not an expert, I'm not an
43 anthropologist, but there's where the answer really lies.
44 It's something that's gone on for a very long time. How
45 those folks got out in the Aleutians, I have no idea
46 because I'm not brave enough to take a kayak out there,
47 but some of these people were.

48
49 I hope that answers your question, John.

50

1 MR. LITTLEFIELD: Thank you, Madame
2 Chair. When we get into discussion, I have some other
3 things and I'll hold them until then.
4
5 ACTING CHAIR GOTTLIEB: That sounds fine.
6 If you want to give your testimony, please do.
7
8 MR. WILLIAMS: Thank you, Madame Chair.
9 I'm here to seek a positive cultural and traditional use
10 determination on behalf of Ninilchik Tribe as well as for
11 the Cook Inlet residents to be able to harvest fish in
12 Federal fresh waters. I kind of covered a little bit of
13 this already. Subsistence is a big deal to these people.
14 It's very important to them and that's why we're here and
15 this is why we've had a lot of meetings on this.
16
17 These resources have been used prior to
18 the 1800s and also personally I have also fished Federal
19 fresh waters. One little note I'd like to make in the
20 reports from some of these previous meetings is
21 landlocked salmon are a big deal and landlocked salmon
22 were harvested and they still are. We used to actually
23 go in the Kenai River when the silvers would come in in
24 January and we would harvest those. We can no longer do
25 that. So don't just automatically rule out salmon as
26 something that's harvestable on Federal fresh waters.
27
28 I appreciate the opportunity to be here
29 and I'm going to really try to be as succinct as I can
30 and try not to duplicate a lot of work that's been done
31 before. That's why I thought it was better that Ms.
32 Dyrdaahl presented her presentation first.
33
34 Some of the things I was going to outline
35 was the eight criteria that needed to be determined for
36 the C&T determination. Personally, I'd kind of like to
37 add a ninth one that tends to come up over and over again
38 and that is under the statement of alternatives to these
39 resources. It's one of the things that need to be
40 addressed if there are alternative resources for these
41 people to use. So I kind of throw that in as number
42 nine.
43
44 I'll start with the long-term pattern of
45 customary and traditional use. Some of it I've already
46 covered. Some of the points I'd like to make is that
47 historically Ninilchik was settled in, I believe, 1847 by
48 Grigorii and Mavra Kvasnikoff. That's a pretty long-
49 documented history and they were Russian settlers who had
50 come over. They had actually started the Russian

1 Orthodox Missionary from Moscow. They subsisted on
2 hunting, fur trapping, fishing, gardening and gold
3 panning. There's some documentation of that, too. They
4 started the transfiguration of the Our Lord Russian
5 Orthodox Church in 1846.

6
7 When I talk to people and I listen to
8 testimony that comes from these kind of meetings, I
9 really have to raise an eyebrow when I hear that somebody
10 had homesteaded and they had been there longer than this
11 population that's documented from 1846. It's very
12 misleading. Be very careful.

13
14 In 1880, the U.S. Census found 53 mixed
15 Russian Native individuals living in Ninilchik and they
16 documented that they subsisted in the same manner. All
17 nine of the Native founding families in Ninilchik are
18 descendants of the Kvasnikoffs. In 1896 a school was
19 built and in 1901 the Russian Orthodox Church was
20 redesigned and constructed in its current site.

21
22 Another interesting note, as far as the
23 time that the school has been there, the school is an
24 outstanding resource for Ninilchik. The school posted a
25 newsletter, a newspaper that actually covered events,
26 such as negotiations with Alaska Department of Fish and
27 Game when that came up in the 1940s. These records are
28 available in Juneau and everybody should feel free to go
29 and look at those to try to fill in the gaps that you may
30 not have.

31
32 The post office was established in 1925
33 and 1950 the Sterling Highway was completed through
34 Ninilchik. Now, kind of a point on that one. When the
35 Sterling Highway came through, one of the big profound
36 changes that happened in this community was this mode of
37 transportation. It's kind of like using the river system
38 to go trapping. All of a sudden these people have a
39 better way to be able to utilize these resources and,
40 granted, they did.

41
42 The old village site that Helen was
43 talking about earlier was down by the river and it was a
44 very isolated community, but still it's been occupied for
45 140 years. It's very well documented. Actually longer
46 than that, but we can just kind of go down the things
47 that you can go to the library and check out and make
48 sure you can read it or write it so you don't have to
49 take my word for it.

50

1 When I look at this information and then
2 I have to look at some of the surveys that were presented
3 in some of the work that's been done to try to determine
4 whether we should have customary and traditional use in
5 Ninilchik, some of the things need to be looked at. We
6 did our own surveys and we have some very different
7 results than had come from the agencies.

8
9 One of my problems with it and I have to
10 point out is that when you have a village that has a
11 history like this and you go to do a survey, it would be
12 like going to Japan and doing a survey on Japanese
13 lifestyle and nobody you survey is Japanese. In the
14 survey it actually mentioned that nobody had lived there
15 greater than 10 years and none of them were born in
16 Alaska. For us, that is a profound statement and I've
17 been told that we misread it or misunderstood it. That's
18 what was written in the survey. As a pretty educated
19 person, I look at that and I know what I read. We have
20 to question that and if I don't question that, I'm not
21 doing my job for the people I live with.

22
23 Some other problems that came up with the
24 survey is when those surveys were done, if you look at
25 Nikolaevsk, the survey was stratified. They actually
26 took different parts of it, the Old Believers and New
27 Believers and separated them. Well, we got a pretty old
28 church there with kind of the Old Believer lifestyle and
29 we have a Native group. You know, if you're going to
30 segregate one and look at that, we probably should
31 segregate all of them.

32
33 Ninilchik Traditional Council was
34 involved in one of these surveys from what I understand.
35 Two people were employed to do this and they were given a
36 list of borough parcel numbers to go and deliver these
37 survey sites to. So we had no control of the design. We
38 had no one who was hired who was qualified to design or
39 to review it or anything else. So it was reviewed later,
40 like Ms. Dyrdaahl had said. I'd just like to address
41 cautiously that there's been a whole bunch of work done
42 on this and it's really easy to get misled and this has
43 been in the works since 2002 and it's 2006. So we're
44 trying to make something happen here on a positive basis.

45
46 The recurring use patterns, which I've
47 already kind of touched on, a lot of the hunting and
48 fishing was done in conjunction -- and it's actually more
49 fair to say hunting, fishing and trapping, beings that
50 these people had engaged in a lot of this fur trading.

1 It's really interesting because if you go to the general
2 store in Ninilchik today, there's furs hanging on the
3 wall that you can buy. Same thing. Don't believe me?
4 Go check.

5
6 The Alaska Natives on the Peninsula
7 subsisted seasonally. I think what I'm going to do on
8 that is let a lot of these people testify so you can take
9 it from them other than me telling you as a
10 representative.

11
12 The economic benefits that came with this
13 recurring use, which I've actually already touched on
14 also, comes from being able to work with their neighbors
15 so to speak, whether it's Russian, Dena'ina or whether it
16 was this year and they take their fish down and they give
17 it to their aunt. Those are all economic things that I
18 believe because when I go down to Safeway right here in
19 Anchorage and I want to go buy a pound of salmon, I've
20 got to get my checkbook out. It has an economic benefit
21 and it's important to these people.

22
23 ACTING CHAIR GOTTLIEB: Darrel, I'm going
24 to have to ask you to summarize. I know you're trying to
25 go through the eight points.

26
27 MR. WILLIAMS: Okay. I'll summarize and
28 if I miss anything please bear with me. Did everybody
29 get the record from the RAC and were they able to review
30 that because a lot of this is very similar information.

31
32 Harvest techniques, everything from
33 spears, scoops, fish traps, nets have even been used.
34 There used to be commercial licenses issued in Tustumena
35 Lake. I really wish Doug Blossom would have got here. I
36 understand Mt. Augustine going off this morning impeded
37 his trip. Doug Blossom was one of these people who sits
38 on the Regional Advisory Council that actually had a
39 permit, a commercial permit in Federal waters. So he
40 would be a very good resource and I wish he was here but
41 he's not.

42
43 We discussed about as far as kind of
44 methods and means as far as Ninilchik Natives are
45 concerned. We're not interested in seeing any kind of
46 net use because it's very indiscriminate. We are also
47 good stewards. We do a lot of programs to be able to
48 ensure habitat and things like that and try to give back
49 to the things that are very important to us.

50

1 The access from the village. I've
2 already kind of touched on that, too. Access is what you
3 make of it and some of these people will also testify
4 about how they went to these different places.
5 Personally, I walked. When I would travel to the west
6 fork of the Funny River I walked. That's a long trip and
7 if anybody knows where that's at, you'll respect it.

8
9 Means and handling and preserving
10 harvest. I think it's fairly obvious in the Kenai
11 Peninsula and there's been books written about it. You
12 can go down to the book store and buy them today. They
13 included things like coal smoking, salted fish, dried
14 fish and pickled fish. Different ways to store them for
15 future use. It's a real common practice there. Even
16 today if you go to the old village you will see where the
17 cellars are dug out in the sides of the hill that people
18 still use, where the ground is cold and they can store
19 things from the garden and they can store fish and they
20 can store things there. That's one of the things that
21 you'll still see in Ninilchik.

22
23 Traditional handing down of skills. One
24 of the things that we addressed at the Regional Advisory
25 Council is most skills were actually passed through
26 story-telling and performing these activities with
27 people. The fact is, is that if I count myself as second
28 generation of Ninilchik, third generation the primary
29 language was Russian. The same thing. When I look at
30 these surveys I don't see where there was people involved
31 who could actually make sure that that criteria was met,
32 this information was delivered clearly. When they say,
33 okay, do you know what a char is and when you ask
34 somebody that and they reply in Russian or they think
35 they know what it is, it's not very clear and it gets
36 some very gray results, so it's important to consider
37 these things. The same thing. It's documented in the
38 school newspaper, you know. It's something that can be
39 shown to you.

40
41 So one of the things is when we were
42 looking at addressing this stuff, I actually sat down --
43 it became very profound because I sat down with three
44 gentlemen and I handed them a piece of paper and I asked
45 them would you like to write a letter for the Subsistence
46 Board and the man looked at me because he can't read and
47 write. It's a real thing and it needs to be thought
48 about. I understand it's very much taken for granted,
49 especially here in Anchorage, bigger cities. Go to the
50 rural communities. Reading and writing is a big deal. I

1 just need to touch on that because it is so important and
2 we still have trouble with it. I have trouble with it at
3 my job every day. When I have to work with the elders,
4 reading and writing is a big deal. Usually they want me
5 to write it for them.

6
7 There are some other changes that's
8 happened with the traditional handing down of skills and
9 one of the ones that I think is very important, I'm
10 trying to be succinct, however, is Swanson River in the
11 Federal Park system. I kind of brought this just because
12 I imagine you all are familiar with it. I got this
13 survey in the mail in November. It was due in December
14 and I chose not to participate.

15
16 This is about Skilak Wildlife Refuge
17 Recreation Area planning update. The topics are what you
18 do there, essentially, to make a long story short.
19 Viewing wildlife, photographing wildlife, learning about
20 wildlife, learning about the natural resources. That's
21 really good. The other parts of it is wildlife viewing
22 and photography, wildlife interpretation and education,
23 and campgrounds and other support facilities. This
24 doesn't say subsistence. And this is where you go fish.
25 This is great. They've got landlocked salmon in Hidden
26 Lake that are a blast, you know. But those are the kind
27 of things for the people in Ninilchik we get very
28 discouraged when you see this kind of stuff show up in
29 the mail.

30
31 So that's just another point. Those are
32 the things that have changed that have made this
33 tradition very hard. These people get frustrated on
34 that. I need to pass that along so you know or I'm not
35 doing my job.

36
37 Harvest that is shared and distributed.
38 I've even touched on this, but the traditional resources
39 there have always been shared and distributed throughout
40 the community. There's community gardens, there's
41 actually one area that was a potato garden where they
42 actually grew potatoes for the whole community and they
43 shared that. They've fished together, they've trapped
44 together, they've done all these kind of activities
45 together and they still do.

46
47 We have an educational fishery that is
48 still used and these fish are shared. I know this isn't
49 the forte to address an educational fishery, but to make
50 a long story short we have about 870 tribal members and

1 we're allowed 650 fish. Now, if that educational fishery
2 is supposed to be able to have some meaning of
3 subsistence, who gets to go hungry this winter. Six
4 hundred and fifty fish, that's not going to feed you. So
5 it's a big deal to be able to go and get this.

6
7 We have a determination on moose. A lot
8 of people moose hunt down there. The success rates are
9 bare. The same thing. If you eat moose all winter, to
10 be able to go out and catch fish is kind of nice. So
11 that's something else that's also very important.

12
13 The diversity of fish and wildlife that
14 provide cultural and economic and nutritional needs in
15 the community. Subsistence menus are different depending
16 on where you live, whether you're going to eat sea gull
17 eggs, you're going to eat berries or bowhead whale. You
18 have to decide what it is. We had a very interesting
19 discussion at the Regional Advisory Council about wanton
20 waste of different parts of the animal and one of the
21 most interesting ones that come up, especially like from
22 the elders, is when they see a moose nose left out there
23 they are offended. You should be eating that moose nose.
24 Most people don't eat moose nose, but as far as they're
25 concerned that's very important and if you leave it there
26 you're wasting it and you're bad. These people were good
27 stewards. They depended on that and it was important to
28 them and they didn't want to see it wasted because next
29 year they might need it. It's very important.

30
31 According to the statistics from the
32 State Subsistence Division, rural Alaskans rely on self-
33 caught foods for more than a pound per day per person.
34 That would be approximately 365 pounds of fish per year.
35 That's a lot. I'm not saying that's how much we're
36 using. We don't have documentation to say that we're
37 using that much. However, those are some very high
38 numbers coming from the Subsistence Division. I thought
39 I'd kind of throw that in there to show that when people
40 subsist and they actually rely on these resources, it
41 does take a few fish if you're going to address fish to
42 be able to accomplish these things.

43
44 Other interesting facts that I just have
45 thrown in too that I think is also important is like the
46 events of high-density lipids in the Native community.
47 Fish and moose and very low fat game is healthy for them.
48 A lot of the Native community have cholesterol problems
49 and I think a lot of that comes from a European diet that
50 showed up here that we cook everything in olive oil or

1 whatever, we go to McDonald's. It's a big deal and it's
2 important for them.

3
4 Alternatives. I think it's important to
5 be able to address the alternatives, too. I want to
6 advocate for the positive determination. I considered
7 the alternatives because there's some problems along with
8 these. As far as fish goes, salmon arrive in runs in the
9 summer. Ice fishing is a very good alternative because
10 it essentially stores the fish and there's a way to be
11 able to go and get them. Like I say, I associate it with
12 the trapping. A lot of people go and fish in the
13 summertime, too. But to try to be succinct and make my
14 point, I think that's a very good example.

15
16 The educational fishery is good, but the
17 same thing. When you consider the number of tribal
18 members, which is nearly the whole community, and you
19 consider 600 and some out of a population of 800 and
20 some, that's nearly all of them. But when you consider
21 that, it's not a very good ratio. And I understand this
22 is not the venue to address it in.

23
24 My personal experiences. I'm the one who
25 would go to Indian Creek, myself, on foot. When they had
26 the gold claim in there, things changed. I used to go to
27 the west fork of the Funny. I used to enjoy Skilak Lake
28 a lot. It's getting a little crowded anymore. It's the
29 same thing. I see Swanson River turning into a park and
30 it's heartbreaking to me. You used to be able to go out
31 there and do things. You used to be able to go out there
32 and hunt. I used to run around with David Showalter and
33 he's one of the Kenaitze Indians. We used to go to
34 Swanson River a lot and have a good time.

35
36 One of things you have to remember is
37 that we didn't just do it. A lot of people did it.
38 There's strong relations there. There's strong ties
39 there. It's a big deal. Now you have this Native
40 community who want to go to Swanson River and they see a
41 park that says you may not park here, you will be towed,
42 you can't do this, you can't do that. Most of these
43 people were the ones who made the trails to Mosquito Lake
44 or made the trails to a lot of these places. They were
45 the ones that did that.

46
47 One thing that I need to point out too
48 when I talk about Hidden Lake and Skilak Lake, I'm
49 guessing it was the '70s, it was a long time ago, when
50 the actual road coming to Anchorage was Skilak Loop Road,

1 which is a special management area that I was just
2 showing you the letter about. That was the road system
3 before the new road got put in. You would drive right by
4 that lake. A lot of times for these people it was a
5 matter of throwing a fishing pole in the car and they
6 would go spend the night. It was a much different drive
7 than it is today. Sometimes it was a two-day drive. I
8 think that kind of addresses some of these issues.

9

10 Another thing that I'd like to.....

11

12 ACTING CHAIR GOTTLIEB: Maybe what we
13 could do is, just to make sure everyone else from
14 Ninilchik and everyone else who came here to testify on
15 this one, if we can conclude your testimony, open it up
16 to some questions, I'm sure maybe some of your other
17 points could come up then.

18

19 MR. WILLIAMS: The last thing that I'd
20 like to point out is that I was kind of looking through
21 some of the other proposals and if everybody would, maybe
22 when they have time, look at FP06-23. It's very similar
23 to what we have. I'm starting to see more and more
24 proposals that include mylar maps and include other
25 surveys and that include interviewing seven people. So I
26 have some questions about that. For the sake of time,
27 please make note of my comment and I will conclude and
28 please ask me all the questions you'd like. Thank you,
29 Ms. Chair.

30

31 ACTING CHAIR GOTTLIEB: Thank you.
32 Questions for Darrel. John.

33

34 MR. LITTLEFIELD: 23 is mine tomorrow or
35 maybe Friday. Anyway, I want to thank you for bringing
36 up all eight of these, but I want to hopefully set your
37 mind at ease a little bit here, and the previous speakers
38 and the ones to follow. I know the Chair is trying to
39 hurry this along, but I want you to know that those eight
40 criteria you do not have to meet every single one of
41 them. You've done a wonderful picture of laying these
42 out, previous speakers as well as Ms. Armstrong. As was
43 mentioned by someone else, you were painting a picture
44 and I think you've gone a long way there. Just because
45 you haven't covered every one of these I don't think it's
46 going to exclude you because you've all together
47 collectively painted the picture. It should be clear.
48 This Board as well as the RACs deal with substantial
49 evidence. What a reasonable person can make of this. I
50 think you guys have done a really good job so far. Thank

1 you. And 23 might take a little time, too.
2
3 ACTING CHAIR GOTTLIEB: That's for
4 another day. Thank you, Darrel. I think you can tell
5 the elders you did a good job representing them.
6
7 MR. WILLIAMS: Absolutely. Are there any
8 other questions?
9
10 (No comments)
11
12 MR. WILLIAMS: Am I done, Madame Chair?
13
14 ACTING CHAIR GOTTLIEB: You're released
15 for now. We might have more questions.
16
17 MR. WILLIAMS: Thank you very much.
18
19 ACTING CHAIR GOTTLIEB: Thanks. We have
20 Ron Rainey next. Hello. Welcome.
21
22 MR. GEASE: My name is Ricky Gease. I'm
23 a little bit further down your list. I'm speaking for
24 Ron Rainey on behalf of Kenai River Sportfishing
25 Association. I'm the executive director and just have a
26 few comments.
27
28 We think that it's -- from your directive
29 from the Secretary of Interior in October we would like
30 to see you postpone this decision on the C&T right now
31 until you get a solid process in place which clarifies
32 and strengthens the process of which you determine your
33 C&T determinations that's both technically sound and
34 consistently applied throughout the whole state. We
35 think standards are needed for specific evidence of
36 patterns of use so that the findings are well
37 substantiated. We think if you act now it's a little bit
38 premature on that. Until that process gets finished, we
39 don't see a need for making a determination currently
40 right now. That may not follow the process that you put
41 in place later.
42
43 There was a couple comments on -- by the
44 way, I'm married to a Kenaitze Indian and my mother-in-
45 law was one of the tribal elders of the Kenaitze Indian
46 Tribe, so I do have some history in that regard. But the
47 provisions in this in terms of one of the comments made,
48 I just have to comment on it, was that there are some
49 people who still want aboriginal rights. Those rights
50 were extinguished with the passage of ANCSA and you are a

1 Federal body here and that should be recognized.
2 Subsistence is not based upon aboriginal rights. That's
3 not the legal course that you're following from.

4
5 The proposal also addresses uses that
6 have been not allowed in the Kenai River since long
7 before statehood. ANILCA was adopted two decades after
8 statehood to provide priority opportunity for the
9 continuation of subsistence uses by rural residents on
10 Federal lands. So this proposal request is a significant
11 expansion of use, not a continuation of use. Thus, in
12 our opinion, would not be consistent with ANILCA.

13
14 One of the reasons why I think it's
15 important that you really go through your process and set
16 your process out so that everybody can look at stuff and
17 everybody has a clear understanding of the process. I'll
18 just touch on a few points in terms of some of the
19 household surveys, some of the problems that I noted with
20 the household surveys from '94 and '99. One, they
21 weren't random. I think that's a problem any time you do
22 a survey. If you select out people who are the specific
23 subsistence users or specific long-term tribal members.
24 I understand when you're doing a survey of use for one
25 thing to document a history, but if you're looking in
26 terms of this process here, I think it's a different
27 situation and you do need to have standards that you're
28 following.

29
30 For example, the household surveys in '94
31 were not weighted from use from year to year, so you
32 really can't say if it's a one-year use. If I did my
33 same survey of myself, like '94, yeah, I went up on the
34 Russian River and fly-fished for a time period. Another
35 time period I went out halibut fishing. I've fished all
36 over the Kenai Peninsula personally, myself, but where is
37 my concentrated use. It's on the lower Kenai River, I go
38 out there every day. So that is not illustrated in the
39 surveys as presented. Another point that I found
40 interesting in the survey was that it said 16 percent
41 chinook fishing in the upper Kenai from '94 to '99. I
42 believe I looked at that correctly. I believe chinook
43 fishing is closed in the upper Kenai and has been for
44 quite some time.

45
46 Another thing where I think it's
47 worthwhile to go through and take a little bit more time
48 looking at things when you're presented with information,
49 on Page 225 of this report they talk about educational
50 fisheries targeting chinook and coho. Actually, both

1 those educational fisheries in my opinion, as I fish in
2 the Kenai educational fishery through my wife and assist
3 her in fishing, they actually target sockeyes and not
4 specifically chinook and coho.

5
6 Another point, just being a resident of
7 Kenai, I have to point out Kenai was established in 1791.
8 It's the oldest settlement on mainland Alaska. It's kind
9 of ignored in your presentation of Kenai being settled in
10 the 1880s.

11
12 I do have to mention I was the cultural
13 manager of the Kenai Visitors and Cultural Center. I'm
14 very familiar with Dena'ina culture. I think it's
15 important to understand, especially if you start looking
16 at subsistence uses and use of salmon on the Kenai River
17 drainage.

18
19 The one thing that the Kenaitzes brought
20 in, one of the reasons why they did use coho was that it
21 was in the winter time and you have fish pits throughout
22 the whole Kenai Peninsula. Those are the archaeological
23 sites throughout the whole -- along the Kenai River
24 watershed. This was the technological innovation that
25 they brought to the area here. It was interesting if
26 we're looking in terms of going back and looking at
27 traditional uses and such. Nobody from Ninilchik in your
28 2002 report was on the upper Kenai fishing for coho.
29 That, to me, is the traditional subsistence use for
30 salmon on the Kenai River.

31
32 ACTING CHAIR GOTTLIEB: Could I ask you
33 to summarize, please. Thank you.

34
35 MR. GEASE: Okay. One of the things that
36 we have resources on the Kenai River and Cook Inlet for
37 salmon resources specifically are fully allocated. One
38 of the fears that we would have is if you do make your
39 C&T determination right now without following a rigorous
40 process, we wonder if you're going to follow the same
41 stuff with later proposals, kind of the lack of rigor.
42 We've heard today that the ban on gillnets and the ban on
43 snagging somehow has been hurtful, but they would not
44 want to have nets in the river. It's kind of
45 contradictory sometimes some of the testimony we've heard
46 so far on that.

47
48 We would urge you to go through your
49 eight criteria and fully make them reasoned and well-
50 rationed. I like the idea of being an artist sometimes

1 painting pictures, with imagery and use, but I think in
2 science all the information has to be tied together in
3 order to make it sound. Thank you.

4
5 ACTING CHAIR GOTTLIEB: Thank you. Any
6 questions. Gary.

7
8 MR. EDWARDS: With your connection to the
9 Kenaitzes and I guess specifically addressing with your
10 mother-in-law, what information has she conveyed to you
11 with regards to as she was growing up as a child and all,
12 what kind of use that she made of the Kenai drainage, the
13 Kasilof drainage or any other areas on the peninsula.

14
15 MR. GEASE: I think it's important just
16 in historic times the commercial canneries were the main
17 thing that transformed Dena'ina life. These came at the
18 late 1870s and 1880s and up through today basically. A
19 lot of that change happened where people would start
20 working in canneries and get addicted to a cash economy.
21 They stopped doing a lot of their subsistence uses during
22 the summertime so they could work in the canneries and
23 then they would go out fishing for cohos and they would
24 do their fall camps after the sockeyes were done. So
25 they would go right below Skilak Lake is a good area, a
26 lot of different streams, and then up in the upper Kenai.

27
28
29 It's also interesting to note that when
30 we're talking about the upper Kenai River and we're
31 classifying that as a rural area, the Kenai Peninsula
32 gets, you know, 500,000 people a year coming down
33 seasonally visiting the peninsula. The same agencies
34 that are here right now with the Forest Service and the
35 National Wildlife Refuge are working in conjunction with
36 CIRI to build a \$13 million visitors center to welcome
37 even more people to Cooper Landing in the summertime.

38
39 So I urge you to really think through the
40 process that you're going through and work with the
41 numbers.

42
43 ACTING CHAIR GOTTLIEB: Thank you. Other
44 questions. John.

45
46 MR. LITTLEFIELD: Thank you, Madame
47 Chair. You mentioned allocation and I was just wondering
48 if -- you know, I'm from a rural area and I look around
49 here and I see these other chairs from rural areas. We
50 all have the right to go there right now under the

1 determination, so the allocation -- what do you see
2 changing if right now I can go fish there and there's not
3 an allocation problem and most of the people in this
4 room, at least if they're rural, they can fish there
5 right now if they feel like it. This is a C&T which
6 would tend to decrease those people. What allocation
7 problems do you see there?

8

9 MR. GEASE: The allocation concerns that
10 I think we would have would be -- I think it's foolish to
11 think that there's not going to be -- currently right now
12 if you can come and everybody around the state can come
13 to the Kenai Peninsula, I'll cut right to the heart of
14 the issue, the Federal regulations most likely are going
15 to be staying mirrored to the State regulations where you
16 can go with a rod and reel and go fishing there.

17

18 If you narrow your C&T, do C&T
19 determinations for Cooper Landing and Hope and Ninilchik,
20 I think the fear would be then is that you're going to
21 have a slew of proposals coming down saying, you know,
22 traditionally I would use gillnets, so we have a -- how
23 are you going to -- you know, from a mile and a half
24 above the Russian River confluence to a mile and a half
25 below it, you have five, six, seven thousand people
26 standing shoulder to shoulder. Where is somebody going
27 to put a traditional net in. That would be the fear
28 coming later down if you narrow the idea. So then what
29 you're saying is, oh, since now we don't have everybody
30 in the state being eligible, we can expand from the
31 current rod and reel basically. Does that make sense?

32

33 MR. LITTLEFIELD: No, but that's good
34 enough.

35

36 MR. GEASE: One other point just on your
37 surveys that you do. It was interesting to see that
38 something was a subsistence survey, but it did not
39 differentiate the pattern of use. Was it in an
40 educational fishery, was it a personal use fishery, was
41 it a sportfish fishery or was it actually somebody
42 applying for what they can do right now, a subsistence
43 permit. So what I saw on a lot of the surveys there in
44 the information you have in front of you is a clumping
45 together of all the other types of ways that people can
46 get salmon and then use that. So I think there needs to
47 be some thought given to how the surveys are created, so
48 it's a cleaner breakdown of personal use, personal
49 sportfishing or subsistence.

50

1 ACTING CHAIR GOTTLIEB: Of course, right
2 now there is no Federal subsistence, so it would be
3 pretty difficult to have that as a category.
4
5 MR. GEASE: It's my understanding that
6 people can apply.
7
8 MR. EDWARDS: Judy, that is not true. I
9 think Gary Sonnevil is here and can actually address the
10 number of Federal subsistence permits that have been
11 requested for that area.
12
13 ACTING CHAIR GOTTLIEB: Okay.
14
15 MR. GEASE: Yeah, people can apply for
16 subsistence permits. That's what I'm saying. It's a
17 little confusing to us to understand if people can go up
18 there right now and go subsistence fishing, there's not a
19 pressing need for it right now. I think there are valid
20 questions that come up in your policies and procedures
21 and process that need to be answered and solidified
22 before you go ahead and make some determinations.
23
24 ACTING CHAIR GOTTLIEB: Charlie, you have
25 a question.
26
27 MR. BUNCH: Yes, if I can. Regarding the
28 1994 survey that Ninilchik did, the Borough didn't do
29 that survey but they funded it and the design of it was
30 not a random survey, it was purposely not random. It was
31 a key respondent survey to see how the people of
32 Ninilchik were utilizing those resources. I believe that
33 Fish and Game did do a random survey of the Ninilchik
34 area and you can check with them on the results, but the
35 surveys the Borough funded weren't aimed to be random
36 surveys.
37
38 MR. GEASE: Right. That was my point.
39 If you're getting information presented in front of you
40 that's not randomized, if you don't have policies and
41 procedures in place that say the information that you do
42 examine is a random survey so you get a true sampling,
43 that can be expanded to the whole village of Ninilchik
44 versus just a targeted survey.
45
46 MR. BUNCH: But the purpose of the survey
47 wasn't a random survey, it was determined how the members
48 of Ninilchik utilize a subsistence resource.
49
50 ACTING CHAIR GOTTLIEB: Gary.

1 MR. EDWARDS: I think maybe the point
2 that was made, it was my understanding and I was looking
3 at the report that Taylor Brelsford did, that there was a
4 special effort made to include the most knowledgeable and
5 actively involved hunting families, so the way I
6 understand it, it was a fairly targeted survey.

7
8 ACTING CHAIR GOTTLIEB: I just want to
9 verify. You said at the beginning Ron was not here.

10
11 MR. GEASE: He is here, but we just
12 decided for matters of time to combine it.

13
14 ACTING CHAIR GOTTLIEB: To combine your
15 testimony. Okay. Very good. Just wanted to make sure
16 on that. Thank you very much for your time. Appreciate
17 it.

18
19 MR. GEASE: Okay. Thank you.

20
21 ACTING CHAIR GOTTLIEB: Bill Stockwell.
22 Hello. Nice to see you again.

23
24 MR. STOCKWELL: Glad to be here. Well,
25 maybe. Madame Chair. Members of the Board. My name is
26 Bill Stockwell. I'm the chairman of the Cooper Landing
27 Fish and Game Advisory Committee. You have our comment
28 letter of June 22nd and I won't go into that whole thing.
29 We also attended the meeting in October in Kenai, at the
30 RAC meeting. We testified there and that's also on
31 record. I'd just like to bring up that Cooper Landing is
32 the only Federally designated rural community within the
33 Kenai River drainage and whatever you decide here could
34 possibly have a profound effect on the quality of life,
35 the lifestyle and the economy of Cooper Landing, so I'd
36 like you to consider that carefully.

37
38 We're not disputing the long-term
39 subsistence uses in the Cooper Landing area. I think
40 it's been documented that people have been using the area
41 around the Russian River and Kenai River areas for over
42 3,000 years, so that's pretty well on record. I don't
43 think we need to go back on that.

44
45 Just to get started, I'd like to read one
46 portion of our comment letter of June 22nd. The Cooper
47 Landing Advisory Committee amended this proposal to read
48 that only the community of Cooper Landing will have a
49 customary and traditional use determination for salmon,
50 Dolly Varden, trout and char in the Federal waters of the

1 Cooper Landing area and that the Federal waters of the
2 Cooper Landing area would be defined as all waters of the
3 Kenai River watershed upstream of Skilak Lake.

4
5 We believe that Cooper Landing is the
6 only community that can come close to satisfying the
7 eight factors of determining customary and traditional
8 use within the waters of this Cooper Landing area.

9
10 The findings of the Cook Inlet customary
11 and traditional subsistence fishery assessment certainly
12 seems to support our amendment to this proposal and the
13 amendment supports the findings and the wishes of the
14 people of our community.

15
16 We did oppose the original No. 09 as
17 written and we don't feel that that -- we felt it was too
18 broad. We also opposed the findings of the Regional
19 Advisory Council at their meeting because we still feel
20 that's too broad. We do not believe that Ninilchik
21 satisfies the eight criteria for the upper Kenai River
22 area, nor do we believe that Cooper Landing would justify
23 having customary and traditional use for areas around
24 Tustumena Lake, for instance.

25
26 I think we could support the minority
27 recommendations that the Staff has created in the report.
28 However, I'd like to add, if you look in our report, we
29 don't believe that grayling should be listed for
30 subsistence if steelhead and burbot are restricted. The
31 reason being that those were stocked into the area
32 probably sometime after the nets were pulled out, then
33 were never used for subsistence and weren't available for
34 subsistence prior to the Federal ban on subsistence in
35 1952.

36
37 Actually, I'm going to comment on
38 something that hasn't been
39 brought up yet, but I did get a copy of the State's
40 recommended actions and I think that we would support
41 that. The analysis on this whole process is ongoing work
42 and I don't think it's been completed to the point where
43 we should go about changing things now as other people
44 have brought up. All rural people can at any time go to
45 the Kenai and if they want to fish under subsistence can
46 get a Federal subsistence permit and fish under sportfish
47 regulations or they can buy a sportfishing license and go
48 fish under sportfishing regulations.

49
50 So it's not going to affect anybody in

1 any way if this thing is postponed except that we'll just
2 continue this process on and we won't take up changes in
3 bag limits, ways and means and seasons until new
4 customary and traditional use is determined, but I don't
5 believe that's going to affect anybody if we don't do
6 anything at this time. That would be our recommendation,
7 for you to follow the State's recommendation and postpone
8 this issue.

9

10 ACTING CHAIR GOTTLIEB: Thank you. Any
11 questions for Bill?

12

13 MR. STOCKWELL: That's the end of what I
14 have to say and I'll be glad to answer any questions.

15

16 ACTING CHAIR GOTTLIEB: Gary.

17

18 MR. EDWARDS: Madame Chair. Bill, on
19 what does your council base the fact -- you know, someone
20 argued they might be fighting words. They're saying that
21 people in these other rural communities didn't come up
22 into your area. I mean my assumption is you don't know
23 and maybe historically when people came up or didn't come
24 up. I mean is there some basis for drawing those
25 conclusions?

26

27 MR. STOCKWELL: Basically what we looked
28 at, and I'm not bringing this -- it doesn't necessarily
29 come from the meetings with our advisory committee, but
30 also from history stuff, talking to people in the
31 community. Of course, the Dena'inhas had the community in
32 Cooper Landing, which basically moved out sometime around
33 the 1920s, so they obviously subsisted there. The road
34 system wasn't in. Basically the old-timers tell me, when
35 did subsistence leave the Cooper Landing area, well it
36 left when the road opened from Anchorage. There's that
37 issue.

38

39 The other question is, how far did people
40 come specifically to go fishing in the Cooper Landing
41 area from their traditional home areas and this has been
42 brought up before. I know we've listened about trapping
43 and people hunting and traveling and obviously those
44 people ate along the way, but whether this qualifies for
45 customary and traditional use is a determination that you
46 folks have to make.

47

48 But our feeling is that the people from
49 areas outside the Kenai River traditionally probably in
50 the old days because they had other stocks available to

1 them and if they were customarily and traditionally
2 fishing out of their village, they weren't coming to the
3 upper Kenai from the lower Kenai Peninsula, for instance.
4 This doesn't mean that people didn't come through the
5 area and catch fish, that people didn't come through the
6 area and hunt, but it means that they weren't
7 traditionally coming there just for the specific purpose
8 of catching subsistence fish, while the people, of
9 course, that were in the area were.

10

11 Like I said, the only people left today
12 that are considered rural by Federal regulation are the
13 people in Cooper Landing. So that's basically the answer
14 to that. Did that answer your question, sir?

15

16 ACTING CHAIR GOTTLIEB: Other questions
17 or comments. Ralph.

18

19 MR. LOHSE: I've just got one question
20 for Bill and it's just a clarification. If I'm a
21 subsistence user and I'm traveling through the area and I
22 don't have any food along and I take fish for one day, am
23 I taking fish for subsistence?

24

25 MR. STOCKWELL: What period are we
26 talking? I mean if you're traveling down the road in
27 your car and you want to stop at the Russian River during
28 the season and you catch a fish and you're going to eat
29 it, is that subsistence? Well, it depends. I guess you
30 could look at it from where you are. If it's somebody
31 from Anchorage, maybe no. You and I live in rural areas,
32 Ralph, and we can say yes. So you give me an answer. I
33 don't know. I'm probably not qualified to answer your
34 question.

35

36 To me, the first fish I get is part of
37 the rite of summer. That goes along with the first
38 vegetables out of the garden, but that's people that live
39 that way.

40

41 MR. LOHSE: Thank you, Bill.

42

43 ACTING CHAIR GOTTLIEB: John, go ahead.

44

45 MR. LITTLEFIELD: I guess I do have a
46 comment. I have a motorhome, small one, but a motorhome
47 nonetheless. I'm a rural resident and if I was driving
48 through Cooper Landing and took a fish, the answer would
49 be yes. I just want to clarify something. The State
50 regulations are what's in the book right now. There's

1 nothing to prohibit anybody from requesting submitting a
2 proposal to the Federal Board through the Councils to
3 change those regulations, methods, means and whatever
4 right now, or even that could be done. So just not
5 having C&T isn't going to prevent someone from writing a
6 proposal. That's all I wanted to comment on.

7

8 ACTING CHAIR GOTTLIEB: Thank you, John.

9

10 MR. STOCKWELL: I agree. You're correct.
11 That's why we're here right now, because people did
12 submit proposals to the Federal Subsistence Board and
13 that's what we're discussing, and ones on bag limits and
14 everything were also submitted at the same time and
15 they've been deferred and we will be discussing those
16 later. This is the process that's going on. We're well
17 aware of that and we'll be working with the process and
18 continue to.

19

20 ACTING CHAIR GOTTLIEB: And we thank you
21 for that. Bruce Oskolkoff.

22

23 MR. OSKOLKOFF: Thank you, Madame Chair.
24 I appreciate the opportunity and the Board to come here
25 and discuss a little bit about the issue. The way I
26 perceive it anyway. My name is Bruce Oskolkoff. I'm a
27 lifelong resident of the peninsula, Ninilchik in
28 particular. I was born in Homer, but raised pretty much
29 my entire life in Ninilchik and grew up as a subsistence
30 user, as that term kind of is defined. More
31 particularly, a Native resource user from that area.

32

33 The reason I wanted to speak today is to
34 talk a little bit about what I feel is kind of the most
35 important issue concerning the proposal for the Cook
36 Inlet area. It really has two facets that I see. First
37 of all, just the ability to have the customary and
38 traditional subsistence use ability continued for not
39 only Native people but people that have a particular need
40 for use of that resource.

41

42 In particular, my comments I would try
43 and lend some degree of support for the Option A as part
44 of the proposal. Option A, the context that it's been
45 put in, seems to be the option that would best protect
46 the rights as I see them for myself, other subsistence
47 users from Ninilchik area.

48

49 We've heard a lot of different comments
50 about what happens and what subsistence means and what it

1 in theory means and the reason I wanted to come speak
2 today is because I feel like I'm kind of in a little bit
3 different category in some ways in that I've grown up in
4 a subsistence lifestyle all my life pretty much as a
5 basis of who I am and the people that I come from. I've
6 also been the president of Native corporations, have
7 numbers of successful businesses myself, worked with the
8 tribe in Ninilchik and other entities over the years,
9 I've worked with a number of the people here and I don't
10 feel I'm any less of a subsistence user because of that.
11 It's just as critical, it's just as important and I think
12 that's one of the things I wanted to emphasize is what
13 that really means and what I think the Board here is
14 looking at trying to arrive at a decision for.

15
16 My concern is really that without good
17 consideration there's the potential for loss of use or
18 impairment as there has been in the past for these
19 rights, for subsistence rights, and it's important for
20 the people of Ninilchik, I think, to speak out to not
21 only protect the right to be able to do that, but to be
22 able to protect the area that they historically used for
23 those purposes.

24
25 A number of comments I've heard today are
26 that, well, you know, you don't do it today so much and
27 these areas are areas you haven't used recently. I'll
28 try to explain as quickly as I can some of the reasons
29 why that's happened, the importance of looking at the
30 rights issue and seeing if we can kind of separate that
31 from what's being done today.

32
33 I heard comments made fairly recent here
34 that ANCSA extinguished aboriginal rights and I happened
35 to over the years teach ANCSA law and land law and I
36 wrote an Amicus brief for ANILCA law and different things
37 over the years. In fact, ANCSA didn't extinguish
38 aboriginal rights. It only did in regard to property and
39 property estate. In fact, ANCSA was the act that
40 specified what resulted later as ANILCA Section 804
41 language trying to deal with those resource use rights.
42 So I just want to be clear that we're really talking
43 about the use of those rights.

44
45 Again, I've utilized these resources and
46 some of the things I have to talk about kind of seem
47 barbaric in a way, but I need to address them because
48 they're really the essence of the issue. Some of the
49 history of this is that all of these areas, you know,
50 much further than Ninilchik -- I know for a lot of people

1 they look at the maps and stuff and they say, well, how
2 did they get there and how did they do these things.
3 We're looking at today. That's a pretty long drive in a
4 car.

5
6 But you have to understand when I was
7 young and I'm 48 years old and I'm just at the point
8 where I have to admit that I lived through two kind of
9 generations of pretty significant changes in lifestyle.
10 When I was very young, we grew up and we had really what
11 I thought was nothing. We just had resources. We had
12 fish and clams and things I didn't like to eat all the
13 time, and moose meat and parts of moose that other people
14 didn't eat and didn't have a whole lot of anything that I
15 thought was -- you know, we didn't have a fancy car or
16 anything else, but we lived well and I realize now we
17 lived very well for that time.

18
19 My brother, who was just a couple years
20 younger than me, missed out on really some of the things
21 that I got to participate in. I was actually a part of
22 some of the hunting parties, the fishing parties and
23 stuff that we went in inland areas, the traps and those
24 type of associated utilization resources in the village
25 as well as later commercial traps and those types of
26 things. I was still pretty young, but at that point I
27 actually was interfaced with that lifestyle much more
28 than the lifestyle I am today.

29
30 As a part of that, I got to see -- and I
31 remember the very first trip I ever made that gives you
32 an idea of how some of these things happened. Hunting
33 parties were designated at specific times of year for
34 different resources, fishing was the same way and you
35 traveled long distances all the time. Even in my teens I
36 remember going and checking our traps in the middle of
37 winter in snowshoes and we'd snowshoe in in the morning,
38 early in the morning, get up and snowshoe into Caribou
39 Hills 18 miles away, check all our traps, bring our stuff
40 back, furs, and snowshoe all the way back home through
41 the night. That's the reason you went at night,
42 particular nights, was because of the moon. It was clear
43 enough to go and you didn't go on cloudy nights because
44 you didn't have batteries for flashlights or anything
45 else.

46
47 That's even the more modern version.
48 Other people traveled by dog sleds, my dad and our
49 family, when I was young. So going long distances wasn't
50 anything, any problem at all. In fact, like I say, even

1 in my life now I try and stay in reasonable enough shape
2 so I can continue to do a lot of those things. Trips up
3 into Tustumena Lake, Skilak Lake and those type of things
4 were routine. They were done all the time. Bringing out
5 fish and resources, stuff like that, were done a lot of
6 times on sleds that were build like skids out of poles.
7 You make them as lightweight as you could and you could
8 put a lot of dried fish and things on those.

9
10 Groups of men, from 12 to 15 to 30 at
11 times from the village would go. And a lot of my family,
12 as well as some of the other people here were those
13 parties that went out. They weren't in the village a lot
14 of the time. They went from the traps to the fishing in
15 the river, then they went inland, did furs, then went
16 upstream and upriver to the lakes and stuff to get fish
17 and those were usually the same people. It was a lot of
18 the same people that went and got those resources. But,
19 again, they were shared with the village.

20
21 My family is also one of the families --
22 in fact, the family discussed earlier, the large garden.
23 We had huge gardens, 160-acre gardens, that we raised
24 potatoes for the entire community. We did the same thing
25 with the fish. It was not just an option or a nice thing
26 to do to deliver fish to an elder. It was mandatory.
27 Unless you wanted to live in some other village, it was
28 what you did and you provided those resources to them.

29
30 ACTING CHAIR GOTTLIEB: If I could ask
31 you to start to summarize, please.

32
33 MR. OSKOLKOFF: Okay. That's kind of the
34 main point I really want to make, is the utilization of
35 these resources in these areas. What I really want to
36 stress to the Board is that it's really about the right
37 that was established and you can go back five years, 50
38 years, 100 years if you want. It's really the same
39 right. It's the same ability to be able to go and
40 utilize those resources from those areas.

41
42 The northern part of the peninsula,
43 Russian River, Sterling, where we did a lot of ice
44 fishing and fishing up in lakes, Hidden Lake, Tustumena
45 Lake, Skilak Lake, were utilized up until the point of
46 really like in the 1952 closure and stuff, was really
47 kind of the turning point because that's when people
48 became confused about what their rights were, why is
49 there even a law being created to stop these things.

50

1 I'd just quickly equate that to what's
2 happened in the moose hunting programs and stuff when
3 they first introduced the antler restriction rules. You
4 know, two thirds of the hunters, my aunts and uncles and
5 a lot of people that would come to the village or live in
6 the village quit hunting moose because they couldn't --
7 it was just another set of complications and rules that
8 they didn't understand and didn't know how they were
9 being applied.

10
11 That's what I see happening here, is that
12 rather than looking to protect those rights, identify
13 those and protect them, we're kind of sliding into an
14 area where we're looking at what was your use yesterday,
15 what was your use last year and I just wanted to
16 emphasize that point, that I think it's more important to
17 look at the historical aspect of the rights and the
18 ability to continue to do that.

19
20 My dad is no longer here anymore, but he
21 actually served on some of the commissions and
22 subsistence divisions and that was the thing that he
23 really stressed, was it's not whether one person does it
24 or 100 people do it, it's the right to be able to do it
25 and have the area protected that those activities
26 occurred in.

27
28 ACTING CHAIR GOTTLIEB: Thank you very
29 much. Do we have any questions. Charlie.

30
31 MR. BUNCH: Good afternoon, Bruce. If
32 memory serves me right, as I recall, you had something to
33 do with the original 1994 survey, is that correct?

34
35 MR. OSKOLKOFF: Yes. As well as the
36 later survey, too.

37
38 MR. BUNCH: Did you actually do any of
39 the questioning for the respondents to that survey?

40
41 MR. OSKOLKOFF: No. Others, actually, my
42 sister, one of my older sisters was involved directly
43 with it in the program. I did fill out a survey though
44 actually. I was one of the people that filled out a
45 survey there.

46
47 MR. BUNCH: I was wondering if in the
48 process of that survey you were aware if anyone said when
49 they were starting to use those resources, you know,
50 because I know a lot of those folks were elders that

1 aren't around anymore.

2

3 MR. OSKOLKOFF: Right. That's kind of a
4 crucial point, too, and I kind of made a little note to
5 myself to make sure to try to mention it and that's kind
6 of one of the things I think that people don't really
7 understand. When you hear that from the elders and you
8 hear it in the surveys, you see it written, it's
9 documented and you say, well, I'm not sure and people had
10 asked, well, in the past did you do that and you'd hear
11 the response a lot of times, they'd put down, yeah, in
12 the past I did such and such, when in fact they were
13 doing it that day or that month. They'd been doing it
14 every year.

15

16 And a lot of our family members and
17 stuff, the same thing on Tuxedni Bay and stuff, we go and
18 fish, even today. You know, we don't really even know
19 what the rules are, but we still go there. We've been
20 doing it for our entire lifetime and my father's lifetime
21 before.

22

23 So that was one of the things that's a
24 little misleading, is you had people trying to almost
25 cover in a way for what really was rightfully theirs,
26 their ability to do, yet they had to use this kind of
27 excuse, well, yeah, in the past, 20 years ago I did that
28 and I used these areas because they really weren't sure.
29 When those surveys were done, even the recent one in '99,
30 a lot of the elders and stuff when they were asked were
31 very afraid to speak out and say much. It was a little
32 better because those were done kind of anonymously in the
33 reporting, so they were more willing to give answers that
34 they probably wouldn't have given and didn't give in the
35 earlier surveys. But a lot of that use that was even
36 continuing at that time was not reported.

37

38 MR. BUNCH: I know your father was a
39 subsistence user as well as Mike and Zoya, your
40 grandparents. Do you remember tales that they may have
41 told about, you know, utilizing those resources?

42

43 MR. OSKOLKOFF: Absolutely. All the
44 time. In fact, when we weren't working so hard that we
45 couldn't talk, he spent the rest of the time talking to
46 me and telling me, remember this, understand this, here's
47 how you tie the knots, here's how you build the sled.
48 All the time. My grandfather the same thing. We'd be
49 cutting wood or coal in the coal shed and the same thing,
50 every minute I was around him he was stressing those

1 points, you've got to do this, you've got to be prepared.
2 Maybe you won't have to do this, but life may dictate
3 that you have to go back and start hunting these moose or
4 going these long distances, so they would relay those
5 stories every single day that we were there with them.
6

7 Again, one of the other points is my
8 grandmother, Zoya Darien, actually is directly one of the
9 largest families in the Dena'ina Tribe, so Ninilchik has
10 a history outside of what's written in the books. When
11 people talk about did you go into the Kenai area or Kenai
12 Tribe, I am the Kenai Tribe. I come directly from them.
13 Most of us in Ninilchik are. There happens to be a
14 mixture at some point with Russian influence, but we're
15 all really from the same tribe.
16

17 MR. BUNCH: I'm assuming that includes
18 the Kvasnikoffs and the Bowens and.....
19

20 MR. OSKOLKOFF: Because a lot of the
21 names were taken -- not were taken but were mandated when
22 those Russian settlements were created, if you look into
23 the history of that, a lot of those names were mixtures
24 of other names and mixtures of Aleut names primarily.
25 They're not really the original family names. The
26 original family name of the tribe in Ninilchik is really,
27 historically, the same as the tribe in Kenai, the same as
28 the tribe in Anchor Point that used to exist.
29

30 The evidence now that they found of the
31 areas north of Clam Gulch or substantially east of there
32 were probably the largest Native communities that ever
33 existed on the peninsula. So Ninilchik, when you talk
34 about being a Ninilchik tribal person or tribal member,
35 you're just talking about how we see it today. In fact,
36 many communities and stuff were 10 and 15 miles inland
37 and they were very close to Tustumena Lake, so it was a
38 very short trip to Skilak Lake at that time.
39

40 MR. BUNCH: One more question, Bruce.
41 You stated that you snowshoed in the dark without
42 flashlights. Where did you go when you would go on those
43 trips?
44

45 MR. OSKOLKOFF: We just had marked trails
46 or existing trails for our fur traps and we would hit
47 first the rabbit snares and stuff that were close in,
48 then coyotes and fox were further out. It meandered out
49 kind of along what's called -- like Ninilchik Lake area
50 where my grandparents lived and they used to have the fox

1 farms later on. But it would follow along that and then
2 into the hills, up into the Caribou Hills and then back
3 up to the northern Ninilchik River drainage, which is 12
4 or 15 miles north, and then back.

5
6 Sometimes they were two-day trips or
7 longer because if weather got socked in, you couldn't see
8 anything, you didn't have flashlights or anything.
9 Actually they still exist today. There still are cabins
10 and our little campsites, what's left of them. They've
11 been pillaged and stuff by now. But those were along the
12 trail and sometimes when it got bad you just held up.

13
14 Like I say, the first trip I ever made
15 like that with a hunting party when I was, I think,
16 around seven years old or whatever, I remember my mom
17 that morning, you know, giving me two molasses cookies
18 that I put in my pocket and I didn't even really know
19 what I was doing. I remember walking out of the house
20 and thinking -- I think I remember having tears in my
21 eyes because I was wondering how we were going to eat,
22 what are we going to do to survive. And we did survive
23 because you weren't very far into the trip and you had
24 sometimes porcupine or other things that the men would
25 get and that's what you ate. So it was all taken care
26 of, I just didn't realize that because already at that
27 time, you know, we had stuff on shelves in stores and
28 stuff. But that was really the procedure. And that was
29 just commonplace.

30
31 I don't even know how to really emphasize
32 that to the people here now. Like I say, I grew up at a
33 very different time. It's kind of a different and kind
34 of scary world because then everything was systematic.
35 You just did, you moved, you traveled, hunted, harvested
36 and you survived. The day you didn't do that, you didn't
37 survive and it was not a big loss. It was not a big
38 thing like it is today. You just didn't make it because
39 you didn't do the right things.

40
41 I just want to see that we preserve that
42 right to be able to do those things if, in fact, it may
43 become a necessary or simply for the fact that it's a
44 part of my culture, my people.

45
46 MR. BUNCH: Thank you.

47
48 ACTING CHAIR GOTTLIEB: Thank you very
49 much. I think you've given us quite a bit to think
50 about. Ivan Encelewski.

1 MR. ENCELEWSKI: Thank you, Madame Chair.
2 Members of the Board. It's an honor to be here to speak
3 in front of you. My name is Ivan Encelewski. I'm the
4 executive director of Ninilchik Tribal Council. I'm also
5 an Alaska Native lifetime resident of Ninilchik.
6 Residents of Ninilchik have a customary and traditional
7 use history as demonstrated through residents who
8 continue to fish freshwater and Federal waters.
9

10 Recent discussion has surrounded this
11 proposal regarding the surveys that were done. I don't
12 want to really get into hashing back and forth and trying
13 to belittle each other's surveys. I think there was
14 people that tried real honestly to do some good and hard
15 work. One thing I will say that I'm not trying to
16 belittle the State proposal, it was kind of interesting,
17 is that I've never spoken to one person in the community
18 that was actually surveyed. It's interesting to me
19 because I see hundreds of tribal members a year for
20 various issues or talk to them as the tribal.
21

22 I sit on many statewide boards and to not
23 hear of one person in the community or tribal member that
24 was actually participating in the survey, and I
25 understand it was done randomly with the tax parcels,
26 unfortunately I feel that maybe the randomness
27 unfortunately randomly didn't include some of the user
28 group, some of the older members of the tribe and the
29 community. So, like I say, I don't want to get into it.
30 I think people have done hard work.
31

32 Another thing I want to point out is this
33 has been ongoing for four years and there's talk of
34 deferral and whatnot. One of the co-sponsors has passed
35 away since this proposal was even submitted. So, you
36 know, I really truly believe that it's time to act on
37 this proposal. We've heard from several community
38 members and it's unfortunate our elders can't be here
39 because of the long travel and the cost. A lot of our
40 elders and users in this category simply won't testify in
41 front of people and they have their various reasons and
42 the way that they do things and they don't like to be
43 tape-recorded. It's very hard for them. That wasn't
44 their lifestyle, so it's very, very difficult to get
45 their input.
46

47 Another thing I think that people -- you
48 know, Ninilchik residents also combine, like especially
49 on Tustumena, fall moose hunting and they would fish
50 there as well at the same time. Many residents that

1 hunted around the Tustumena area also fished at the same
2 time as well, fished while they were camping, subsistence
3 and whatnot.

4
5 Another thing is people don't really
6 quite understand always where they're at as far as
7 Federal/State. I thought to myself even, you know, have
8 I done this subsistence fishing. I said, well, I haven't
9 really done all that. I got to thinking about it and,
10 you know, my father and I used to go to Skilak Lake.
11 After we'd get done commercial fishing we'd take our
12 beach trailer up there for a week and fish and my family
13 would have a wonderful time. My mother and I used to
14 love to hike. We'd hike in the Devil's Pass, Lost Lake,
15 Crescent Lake. We actually went up there for grayling.
16 I read some of the log books and they actually -- some of
17 them were using Skittles for bait for grayling.

18
19 Another issue I'll kind of touch on is
20 people wonder and it's been kind of hashed over, but it
21 seems like a far, long ways to travel. Our people walk
22 40, 50 miles no problem. My uncles, grand uncles, they
23 literally could go out for two weeks in the middle of
24 winter on their trapline all the way up, you know, living
25 off of porcupine and freshwater fish on the lakes and
26 whatnot. I mean they had traplines that went for miles
27 and miles and miles.

28
29 Also, unfortunately, one of the Regional
30 Advisory Council members said I could say his name
31 because I just talked with him and he was unable to make
32 it, but Doug Blossom was going to testify and he, every
33 fall, goes up to Tustumena Lake and has fished there
34 forever and was one of the first ones to have a
35 commercial permit on Tustumena Lake. So he'd asked that
36 I kind of mention some of that stuff.

37
38 But I think the evidence is pretty clear.
39 It seems to me that people that have come here and
40 testified and testified, not only them, their family
41 members, their history. Nowadays we go to Carrs or a
42 restaurant, whatever, but things are a lot easier
43 nowadays, but they were really tough people and we still
44 continue to do those things and freshwater fish. My son
45 is eight years old and he has two trout in the freezer.
46 We do these things and we're not afraid. Yeah, we have
47 different methods of transportation. They had dog sleds,
48 they had snowshoes, skis, all those kind of things.
49 They'd run a dog sled for the mail for the entire
50 peninsula, 40 to 50 miles. Traveling was not really

1 limiting these people from participating in activities.

2

3 ACTING CHAIR GOTTLIEB: I wonder if we
4 could have you summarize.

5

6 MR. ENCELEWSKI: I'll go ahead and
7 summarize. Basically, I think I've pretty much said what
8 I had intended to say. Again, my great grandmother is
9 Zoya Darien and, yes, I am a Ninilchik tribal member.
10 Yes, my dad was a Kenaitze tribal member as well. Yes,
11 we are Dena'ina as well and have Dena'ina ancestry. So
12 to separate that out is simply not true.

13

14 The other thing I have to say is that,
15 you know, I don't know, everybody's got their own
16 culture, but certainly our educational fishery is nothing
17 -- I mean we only get an allotment of chinook, but that's
18 the primary staple. Elders have told me that, you know,
19 when fish were plentiful they actually used red salmon as
20 dog food. I mean they want kings. They want the kings.
21 The chinook is the primary resource. So I can
22 unequivocally state that in our educational fishery
23 chinook salmon is definitely a priority for our people.

24

25 That was a side note, but I just wanted
26 to clarify that for our area. With that, I thank you
27 very much and I'll take any questions.

28

29 ACTING CHAIR GOTTLIEB: Thank you. Do we
30 have questions for Greg? I have one. You mentioned your
31 uncles. Do you know about where they ran their traplines
32 on the Kenai?

33

34 MR. ENCELEWSKI: Unfortunately I don't
35 know exact areas. My Uncle Abe, he was an avid, avid
36 trapper and just a really tough guy. The guy would go
37 out 40 below and dig clams. Unfortunately, they passed
38 away when I was very, very young, but there's a lot of
39 stories that come down through the family about their
40 trapping stuff. I can't exactly pinpoint, you know,
41 specific spots. But to say they didn't use Tustumena
42 Lake or something would be -- I mean they went well, well
43 out of the Ninilchik area and had to. Like I say, they
44 had to -- it was part of the -- you know, furs was part
45 of not only food, but it was money, fur trading and
46 whatnot. So, I mean that was their lifestyle and
47 trappers go for long, long distances.

48

49 ACTING CHAIR GOTTLIEB: Thank you very
50 much, Ivan. Sorry about that.

1 MR. ENCELEWSKI: Thank you.
2
3 ACTING CHAIR GOTTLIEB: Do we have Sarah
4 Stokes?
5
6 MS. STOKES: Thank you, Madame Chair.
7 And the Board, for hearing my testimony. I'm basically
8 here today to give my testimony for a positive
9 determination for a customary and traditional
10 determination for Ninilchik. This is going to be fairly
11 short. You've heard quite a bit of the history of
12 Ninilchik and that we have fished the Federal freshwater
13 fisheries. I just wanted to say that we still do
14 continue. Myself, I've fished in the Tustumena, the
15 Skilak Lake, Hidden Lake and the Russian River,
16 especially the Russian River. It was a special thing
17 between my dad and my siblings. We have a special spot
18 we go to. We did it as a kid. We still do it. I plan
19 to do it if I decide to have children. We used rod and
20 reel and we caught fish. If we caught salmon, it was
21 salmon. If we caught grayling, it was grayling. If we
22 caught trout, we caught trout. Basically we ate it that
23 night if we got home that day. That's basically my
24 testimony.
25
26 ACTING CHAIR GOTTLIEB: Thank you.
27 Questions.
28
29 (No comments)
30
31 ACTING CHAIR GOTTLIEB: Thank you, Sarah.
32 Appreciate it. Kenneth Odman.
33
34 MR. ODMAN: Good afternoon. My name is
35 Kenny Odman. I reside in Ninilchik. I've hunted pretty
36 much all over this state. When I was quite young, my dad
37 left my mom, so the village elders and my uncles and
38 cousins gave me a gift. They taught me subsistence. It
39 was quite extensive. I remember I started maybe when I
40 was seven years old and it lasted until maybe I was 12,
41 but we fished all the area. Kenai, Skilak, Hidden Lake.
42 We even hiked into Crescent Lake. We hunted as far north
43 as Denali Highway. They taught me how to hunt in the
44 winter and how to survive and I have given this to my
45 children. So I'm sure you'll make the right decision.
46 Thank you.
47
48 ACTING CHAIR GOTTLIEB: Thank you. And
49 sorry about misreading your last name there.
50

1 MR. ODMAN: That's all right.
2
3 ACTING CHAIR GOTTLIEB: Do we have
4 questions for Kenneth.
5
6 (No comments)
7
8 ACTING CHAIR GOTTLIEB: Thank you very
9 much then. Michelle, and I'll let you say your last
10 name.
11
12 MS. STEIK: Hello. My name is Michelle
13 Steik. There was a lot of written testimony as well from
14 many of my relatives. I am a member of the Ninilchik
15 Village Tribe. I've grown up in Ninilchik. I've lived
16 there all my life. My father was born in Ninilchik in
17 1940. He lived there all his life. His mother was born
18 in Ninilchik and she lived there all her life. So we
19 have a long history, which is why I'm a member of the
20 tribe.
21
22 We have always fished in Federal waters
23 since I was a kid and now I take my nephew to fish in the
24 Federal waters, including Tustumena, Swanson River,
25 Skilak, Hidden Lake, Kenai Lake. We also used to go to
26 the Russian River, but now there's so many people there
27 that we kind of stay away from there. We mostly catch
28 trout and grill them or fry them or barbecue them on a
29 stick. I used to like to do that when I was a kid.
30
31 We also go ice fishing when the ice sets.
32 We generally use trout poles or sticks with fishing line
33 on them and either a piece of corn or little candies. I
34 remember when my brother and I were kids we'd make fish
35 spears and try and spear fish. That didn't pan out all
36 the time. We do enjoy having fresh trout to supplement
37 our diet and we always have.
38
39 I also wanted to comment on travel.
40 Travel before the road was put through was not just
41 boats. There was also a lot of travel by dog sled. My
42 grandfather, Christopher Steik, actually ran the mail by
43 dog sled in the winter from Homer to Kenai on a regular
44 basis and we still have the sled on our back porch that
45 he used to deliver mail. Also, I've heard numerous
46 stories from my relatives about walking the beach. It
47 was commonplace to walk the beach to Homer, walk the
48 beach to Kenai. Not out of the ordinary.
49
50 Other travel, including like skiing. I

1 know my dad has told me stories about when he was a kid.
2 I guess now they call it skijoring, but he'd harness up
3 his favorite dog and he had a rope with a stick and he'd
4 put the stick behind his knees and the dog would pull him
5 on the skis at night and that way he could have his hands
6 free with his rifle or whatever to go out hunting and
7 they would traverse all over. Travel was a very common
8 thing for the people of our village. It's not like we
9 are so kind of lazy today. If somebody asked me to walk
10 40 miles today, I'd laugh at them. But it was just the
11 way things were done. It was the only way that things
12 were done and you just did it.

13

14 I also wanted to comment, in my family
15 we're one of the original families there. My dad has 17
16 brothers and sisters, so we have a very large family. I
17 did want to comment regarding the 2002 fall study. Of
18 this huge family, with 17 brothers and sisters, from my
19 father, all their kids and all their kids, we've got
20 several generations now. My family is very big. I know
21 myself and I don't know of anyone else in my whole family
22 that was part of this survey and there's a huge amount of
23 us that live there in Ninilchik and none of us were
24 included in that survey. And that's a lot of people,
25 just my family. None of us were surveyed.

26

27 I did also want to say in regards to
28 postponing this determination, I would just point to the
29 fact that, you know, all the public testimony you've
30 received showing customary use is substantiated. I don't
31 know why we're putting this off and putting this off.
32 Our elders are only getting older. I don't know how much
33 longer we're supposed to have to wait for this to happen.

34

35 And we do target chinook in our
36 educational fishery. Our elders are very big fans, so I
37 also wanted to comment on that. That's about all my
38 public testimony. Any questions?

39

40 ACTING CHAIR GOTTLIEB: Thank you. Do we
41 have any questions. Charlie.

42

43 MR. BUNCH: Michelle, you said that your
44 grandfather ran the mail from Homer to Kenai. Do you
45 know what route he took?

46

47 MS. STEIK: Probably the fastest one.

48

49 (Laughter)

50

1 MS. STEIK: No, Charlie, I really don't
2 know. My grandfather passed away before I was born. I
3 bet you my dad would know. But, you know, again, this
4 was commented on earlier. My dad is quite elderly and
5 can't, you know, just run up to Anchorage and hang out
6 for three days waiting to testify to the Federal Board.
7 So I can call you and let you know.

8
9 MR. BUNCH: No, I was just wondering what
10 routes he took to see if he utilized any subsistence to
11 feed the dogs or whatever.

12
13 MS. STEIK: Well, I'm sure he did. I'm
14 pretty sure that the sled was probably mostly for mail
15 and not for the dog food. So probably, yeah, I'm sure he
16 subsisted as he traveled for the dogs and himself, you
17 know. That's kind of why I wanted to come. I told him
18 that as well. When you're traveling Homer and Kenai,
19 it's not like a one day trip. You don't just leave at
20 8:00 in the morning and you're back by sunset. Not by
21 dog sled anyhow. I mean I'm sure it took him quite a
22 while. Mail wasn't delivered on a daily basis back then,
23 but probably weekly.

24
25 MR. BUNCH: It still isn't.

26
27 (Laughter)

28
29 ACTING CHAIR GOTTLIEB: Thanks very much.
30 I expected to learn a lot today, but I never expected to
31 learn anything about the origin of skijoring, so that was
32 very interesting. Delice Calcote.

33
34 MS. CALCOTE: Good afternoon. Thank you
35 for this venue. My name is Delice Calcote and my family
36 is from Afognak. My grandmother is one of 16 and one of
37 her sisters married into the Ninilchik family and you can
38 read about my family, Derevnia's Daughters, on Kodiak,
39 about the 16, my grandmother and all her sisters and
40 brothers. One of her brothers was a U.S. Territorial
41 marshal, Robert von Scheele. One of the sisters, my Aunt
42 Marie, married into the Jackinskys. He was the captain
43 of the Bartlett. Some of you may remember Captain
44 Jackinsky. My family is in Anchorage and I live in
45 Sutton.

46
47 I have worked for the Cook Inlet Tribal
48 Government since 1997 and in 1994 they formed a treaty
49 amongst themselves recognizing each others overlapping
50 territories, boundaries, use and occupancy and traditions

1 and cultures. As the tribal court clerk, writing grants
2 for one village led into -- my tribal court work ended up
3 into being -- I'm now the intertribal coordinator for
4 these treaty tribes. I've written a couple grants,
5 papers is what they called them, white papers or concept
6 papers, for their intertribal court.

7
8 In order to build the court, you have to
9 do use and occupancy, traditions, stories. I was able to
10 obtain a copy of the anthropological survey work that was
11 done under some money that was provided by Cook Inlet
12 Region. Several tribal people conducted the survey work
13 throughout Cook Inlet. Within that document it says
14 there's over 50 different ways to say Dena'ina, Tena'ina,
15 Dena'ina, Dena. You ask them all, you're going to get
16 about over 50 different ways of how they say who they
17 are. It's been really interesting and I really
18 appreciate all the work and the responsibility that I
19 have.

20
21 The Cook Inlet Treaty Tribes also
22 developed Cook Inlet Marine Mammal Council. We deal with
23 not only the marine mammals, but their habitat and the
24 other animals within Cook Inlet; the fish, the clams,
25 anything else that those marine mammals are eating and
26 subsisting on.

27
28 I'm also an Exxon Valdez oil spill
29 claimant. I want you to know that my use and occupancy
30 of my family extends from Afognak up through Cook Inlet.
31 Mr. Bunch is well aware of who my family is, the von
32 Scheeles. We have Native allotments in my family and I
33 want to say that those are prior, valid, existing rights
34 and they are paramount and noted in Section 4 of the
35 Alaska Statehood Act. In the disclaimer clause, most
36 importantly, which is forever disclaimed by the State and
37 its people, in the supremacy clause of the Constitution
38 of the United States, Article 6, Clause 2, that this
39 Constitution and the laws of the United States which
40 shall be made in pursuance thereof in all treaties made
41 or which shall be made under the authority of the United
42 States shall be the supreme law of the land and the
43 judges in every state shall be bound thereby anything in
44 the Constitution or laws of any state to the contrary
45 notwithstanding.

46
47 ACTING CHAIR GOTTLIEB: If I could ask
48 you.....

49
50 MS. CALCOTE: I would like it on the

1 record -- excuse me. I would like it on the record that
2 we are not a party and it has not been written or
3 certified by the Secretary of Interior, that we are a
4 party to the Constitution of the State of Alaska, ANCSA
5 or ANILCA, and I would like to provide just a short
6 historical anthropological accounts that the Cook Inlet
7 Treaty Tribes have approved and they include stories
8 about their use and occupancy and they've been written
9 with various State and Federal dollars through various
10 venues, agencies and agents. These anthropological
11 accounts have been summed up in various Federal reports,
12 the Berger report, the 1960 Federal Field Commission
13 report, Shem Pete, Peter Kalifornsky and we have various
14 family accounts within the Cook Inlet area that deal with
15 Cook Inlet and I'd like those on the record. Those are
16 Derevnia's Daughters and Agrafena's Children.

17
18 I'd like to say that subsistence includes
19 our fishing, hunting, gathering, trading and bartering
20 rights. Gathering is very important. That has to do
21 with our berry picking and our medicines that we pick. I
22 have walked around and been shown areas to pick. You
23 guys can question me, but I can't tell you where they are
24 because I'm not supposed to say. That's traditional.

25
26 ACTING CHAIR GOTTLIEB: Could we ask you
27 to summarize, please, because we want to focus on the
28 fisheries aspect.

29
30 MS. CALCOTE: Yes.

31
32 ACTING CHAIR GOTTLIEB: Thank you.

33
34 MS. CALCOTE: I to want to make a comment
35 about some of these reports. We have a report that we're
36 dealing with with the Cook Inlet Marine Mammal Council.
37 Another Federal agency has conducted it on the beluga and
38 we disclaimed that. That was another report that was
39 done of other people, not from this area.

40
41 And I want to declare -- you know, I
42 wanted to say I thought this was public testimony, not
43 public comments. And I disclaim that I'm a U.S. citizen.
44 I'm not a 14th Amendment person. I am a non-treaty
45 Alutiiq and I declare and state that all my rights are
46 reserved as no treaty exists and the supreme court has
47 used the disclaimer clause in the U.S. v. Alaska, June
48 19, 1997 decision. And, further, in Eric v. Hudd it
49 notes that there is no treaty with us.

50

1 To not have the Feds and the State and
2 everybody, the State and its people, not recognizing the
3 cultural and traditional use with the amount of volumes
4 of books, paperwork, payroll, everything, between Federal
5 and State studies on our subsistence and the studies on
6 our resources is -- you go over to that University of
7 Alaska library and I was astounded.

8
9 For this to be a question after all this,
10 I find that subject -- I believe, after being tribal
11 court clerk and studying law now for approximately 10
12 years, I believe that I find that to be smacking of non-
13 feasance, misfeasance and nonfeasance and I'm concluding
14 my testimony.

15
16 ACTING CHAIR GOTTLIEB: Thank you very
17 much. Are there any questions.

18
19 (No comments)

20
21 ACTING CHAIR GOTTLIEB: Thanks. The last
22 person who asked to testify is Art Ivanoff. I don't
23 think he's here. If he's back in the morning, we'll
24 allow him to testify then. John.

25
26 MR. LITTLEFIELD: Madame Chair, earlier I
27 talked to you about scheduling my plane reservations. I
28 was wondering if you had any idea when I should do that,
29 whether it's Sunday or Monday.

30
31 (Laughter)

32
33 ACTING CHAIR GOTTLIEB: Here's my general
34 thoughts. I'd like to go until 6:00 this evening so we
35 could hear the Interagency Staff Committee, the Regional
36 Advisory Council and the State comments. I'd like to
37 begin at 8:00 tomorrow morning. How long it goes
38 tomorrow, I don't know. I can't predict how long we're
39 going to go tomorrow.

40
41 MR. LITTLEFIELD: Is that a Saturday or a
42 Friday?

43
44 ACTING CHAIR GOTTLIEB: Another I don't
45 know.

46
47 MR. LITTLEFIELD: A solid maybe Sunday.

48
49 ACTING CHAIR GOTTLIEB: Hopefully. Thank
50 you. I'd like to get the Regional Advisory Council

1 recommendations, please. Ralph.

2

3 MR. LOHSE: Okay. At this point in time
4 the Regional Advisory Council of Southcentral supported
5 this with modification. We supported the proposal to
6 read: Kenai Peninsula district, all fish, residents of
7 Hope, Cooper Landing and Ninilchik, Tuxedni Bay,
8 residents west of the line due southeast of Crescent
9 River mouth and intersecting another line drawn northeast
10 of the south side of the bay. That was our
11 recommendation.

12

13 I don't know if you wish me as the
14 Council chair to say anything more at this time or I'll
15 have some questions to bring up later while you're
16 discussing.

17

18 ACTING CHAIR GOTTLIEB: It's up to you.
19 If you want to make a few more comments, that's fine.

20

21 MR. LOHSE: I think they'd probably be
22 more effective later, so I'll save them.

23

24 ACTING CHAIR GOTTLIEB: Okay. Very good.
25 Interagency Staff Committee, please. Pete. Excuse me.
26 Any questions for Ralph.

27

28 MR. EDWARDS: Ralph, one of the questions
29 I was wondering is that you had some of your constituents
30 from Cooper Landing come to it and basically tell the
31 Council that they didn't feel that they had any customary
32 and traditional use for all parts of the peninsula,
33 particularly Tustumena Lake, but yet the Council went
34 ahead and gave them something that they came to you and
35 requested that you not.

36

37 MR. LOHSE: Well, in that case, then I
38 guess I better tell you what I was going to save until
39 later.

40

41 MR. EDWARDS: I can withdraw my question
42 and ask it tomorrow if that would help.

43

44 MR. LOHSE: No, no. It's probably good
45 that I put it on the table at this point in time. Our
46 Council has always been more inclusive than exclusive and
47 we try to remember that the issue in ANILCA is rural
48 residents. It's not Kenai and it's not Dena'ina and it's
49 not Aleut and it's not Cooper Landing and it's not
50 Ninilchik, but it's rural residents. We kind of look at

1 it as a community type thing. We, as a Council, have
2 looked at the Kenai as a community.

3
4 In our way of thinking, unless you'd have
5 an incident of complete, 100 percent, physical genocide,
6 communities in existence don't just go away, but they
7 carry down their traditional patterns. Newcomers that
8 come to the communities or the area, they learn from
9 these past patterns and they adopt some of these past
10 patterns and they become part of the new community, which
11 is part of the old community and the new community.
12 These patterns and additions from the newcomers
13 lifestyles are adopted by the old communities and this
14 assimilation is sped up when both old and new share
15 common concerns, like fur trapping or activities like
16 hunting or inter-marrying, like we see on the Kenai.

17
18 We've had lots and lots of testimony
19 today that we're related here, we're related there and we
20 all know that that's true on the Kenai Peninsula, just
21 like it is in the rest of Alaska. So we see that on the
22 Kenai. Thus we, as a Council, think that long-term,
23 continued, consistent use of the resource, which is what
24 we're talking about, the long-term, continued use of the
25 resource, including the area and the handing down of
26 knowledge and all the other eight factors, has continuity
27 because the community has continuity.

28
29 If that community has continuity, we've
30 talked about that before when we've dealt with places
31 like, I'll say, Chickaloon, for example. There's a
32 Native community in Chickaloon. We've dealt with it in
33 front of this Council. There are people who are non-
34 Native who live in Chickaloon. They have the same rural
35 classification or same C&T as the people in Chickaloon
36 who have lived there for a longer period of time who are
37 Native because ANILCA does not deal from the standpoint
38 of Native or non-Native. It explicitly says rural
39 residents, Native or non-Native. So if the community has
40 continuity, then the activities of that community carry
41 down and that's kind of how we've looked at it as a
42 Council.

43
44 I guess that's why, from our standpoint,
45 when we look at Hope and we look at Cooper Landing and we
46 look at Ninilchik and those are the rural communities of
47 Kenai Peninsula at this point in time, they have a
48 continuity of use of the resource. If we check those
49 communities, we're going to find that people are related
50 in them, people have shared in them, people have used the

1 same areas and the same resources and that's why we did
2 not -- to answer your question, that's why even when some
3 members of the community in Cooper Landing said they
4 don't need subsistence down at Tustumena, we looked at
5 the Kenai as a community and that's what we've basically
6 done as a Council.

7
8 MR. EDWARDS: I have something in
9 response. What I thought I heard, I didn't hear them say
10 they don't need the resources, I thought I heard them say
11 they don't feel they have that continuity.

12
13 MR. LOHSE: Well, if they said they don't
14 think they have that continuity, from the testimony that
15 we had from one of the members that we sat and listened
16 to today tells us that the community of Cooper Landing
17 was founded by a resident from Ninilchik, the Cooper
18 family. So even if the current community of Cooper
19 Landing, the current residents of Cooper Landing don't
20 feel like they, themselves, as individuals have it, the
21 community itself has ties. The community itself is part
22 of the greater community of the Kenai Peninsula.

23
24 I guess that's kind of how we've looked
25 at it because we've had to deal with the same kind of
26 situation in other parts of Southcentral. That's my way
27 of thinking. That's where I feel like we've come from as
28 a Council.

29
30 ACTING CHAIR GOTTLIEB: Thank you. Other
31 questions for Ralph today. We will certainly have ample
32 opportunity to ask more questions tomorrow.

33
34 (No comments)

35
36 ACTING CHAIR GOTTLIEB: Okay.
37 Interagency Staff Committee. Pete, please.

38
39 MR. PROBASCO: Thank you, Madame Chair.
40 I will summarize and not read all the comments from the
41 Staff Committee. They're found, as referenced, on Page
42 190 through 192 in your book.

43
44 The Interagency Staff Committee, as the
45 Board is finding out, spent a great deal on this
46 discussion. It resulted in two recommendations. There
47 was a majority recommendation and a minority
48 recommendation. The majority recommendation was to
49 support this proposal with modification consistent with
50 recommendation of the Southcentral Regional Advisory

1 Council to provide the communities of Hope, Cooper
2 Landing and Ninilchik with a positive C&T use
3 determination for all fish found in Federal public waters
4 of the Kenai Peninsula.
5

6 Their justification, briefly, is that the
7 Council's recommendation is fully supported by the
8 criteria outlined in ANILCA Title VIII, Section 805(c).
9 Substantial evidence to document historical and current
10 harvest of freshwater fish species found in Federal
11 public waters, that is salmon, lake trout, Dolly Varden,
12 char, rainbow trout, by these communities, Hope, Cooper
13 Landing, Ninilchik, is provided by the data and
14 information that you heard today.
15

16 The minority recommendation was to
17 support with modification contrary to the recommendation
18 of the Southcentral Regional Advisory Council to
19 establish a customary and traditional use determination
20 by river drainage within the Kenai Peninsula district.
21 For the Kenai Peninsula district, there's sufficient
22 information to support a positive C&T use determination
23 for the residents of Hope and Cooper Landing for salmon,
24 Dolly Varden, trout, char and grayling for those waters
25 north of and including the Kenai River drainage.
26

27 There's also sufficient information to
28 support a positive C&T use determination for residents of
29 Ninilchik for salmon, Dolly Varden, trout, excluding
30 steelhead, and char in the Kasilof River drainage. For
31 the west side of Cook Inlet, there's evidence to support
32 a positive C&T use determination for salmon for the
33 residents of Tuxedni Bay in Federal public waters within
34 Tuxedni Bay. The minority recommendation justification
35 is found on Page 192.
36

37 Madame Chair.
38

39 ACTING CHAIR GOTTLIEB: Thank you very
40 much. Any questions for Staff Committee.
41

42 (No comments)
43

44 ACTING CHAIR GOTTLIEB: Okay.
45 Department. McKie, are you going to start?
46

47 MR. CAMPBELL: Thank you, Madame Chair.
48 I would like to start and then at your discretion we do
49 have Staff that would continue and they could either
50 continue -- they will be here tomorrow and they could

1 continue then if that would be appropriate for you.

2

3 ACTING CHAIR GOTTLIEB: Excellent. We
4 understand with the legislature opening you probably have
5 to get back to Juneau pretty quickly. So glad you were
6 here today though. Go ahead.

7

8 MR. CAMPBELL: Thank you. First off, I
9 greatly appreciate your hospitality in allowing me to
10 join you. I've appreciated the heartfelt testimony that
11 I have heard today and I have no doubt of the genuiness
12 of the subsistence users who have testified before us
13 that they are subsistence users or of the importance of
14 subsistence to Ninilchik. I think that's been very clear
15 and I have no doubt about that.

16

17 As I understand it, however, what is in
18 front of the Board is the issue of whether there is a
19 customary and traditional use on the upper reaches of the
20 Kenai and Kasilof drainages by some or all of these
21 users. This is not about a potential restriction of
22 subsistence. Subsistence is occurring in those Federal
23 waters. It will continue to reoccur regardless of what
24 this Board does or does not do. So that's not an
25 opportunity in anyone's closing.

26

27 This summer you all were gracious enough
28 to invite me to go with you on a trip along the upper
29 Yukon, which I greatly appreciated. During that trip I
30 probably sometimes wore out my welcome a bit talking
31 about three things quite a bit. One was our hope that to
32 the greatest extent possible this Board could focus on
33 data versus express need. Two, the real necessity of
34 following the existing Federal regulations. And, three,
35 strongly urging the Board to adopt written procedures and
36 policies for some of these decisions and I think this
37 issue is relevant to all three of those points.

38

39 There are two main sources of relevant
40 information regarding customary and traditional uses of
41 fish species by the communities of Cook Inlet. The first
42 is the report which our department did at your request.
43 The second are the two reports done by Ninilchik.
44 Regarding this proposal, all the study information show
45 the most present day harvest of fish and game is focused
46 on State-managed waters. The information from the study
47 regarding present and past use of waters subject to
48 Federal subsistence regulations by the community of
49 Ninilchik is inconclusive at best.

50

1 There are relevant questions about
2 specific use areas that could be poised and analyzed from
3 the data that's in the study, but that analysis has not
4 been done. I believe contrary to Staff's assertion on
5 the report there is not substantial evidence to support a
6 customary and traditional use determination.

7
8 For example, the survey asked the
9 respondents about the locations of their past fishing
10 activities, but that data wasn't summarized. That could
11 be done. There are a number of analytical approaches to
12 the information that already has been gathered that
13 either your staff or we could assist with that could be
14 done and that very well may show that there are
15 traditional and customary uses. But I'm simply saying
16 that analysis has not been done and that information is
17 not before you.

18
19 The separate and earlier study conducted
20 by Ninilchik Tribes in '99 with BIA funding has not been
21 available for review. We have seen a summary today and
22 I've appreciated that. There were a lot of very
23 interesting things in that, but that data has not been
24 available for anyone to analyze. What it does show is
25 there's a great deal of use of fish and wildlife by
26 residents of Ninilchik. I have no doubt of that. I'm
27 sure that is correct. But there ought to be a thorough
28 technical assessment and consideration by both Federal
29 and State agencies before it's used by you in a key
30 regulatory decision.

31
32 We believe sound science is the
33 foundation for fish and wildlife management and use of
34 resources whether the regulatory arena is the State or
35 the Federal Subsistence Management program. We're
36 obligated to fully use information that is available and
37 in this case to more carefully assess the content and the
38 applicability of information to the specific questions at
39 hand. We strongly request that this be done for both
40 ADF&G and Ninilchik technical reports.

41
42 My second point was simply following your
43 own existing regulations. There are eight criteria or
44 eight factors, they're used in the analysis, of whether a
45 customary and traditional use exists. As was pointed out
46 earlier, you don't have to meet all eight factors, but it
47 is important that you sort of meet some of them. As Ms.
48 Armstrong correctly said, I believe, if you don't meet
49 the first, long-term consistent pattern of use, you might
50 as well not bother with the rest.

1 While we've heard a great deal today
2 about has there been use, did people go when they were
3 trapping, did people sometimes take fish through the ice
4 or did the people do this or do that or did people take
5 fish while they're traveling and there was a question was
6 that subsistence. Absolutely. There's no question that
7 that was subsistence. But the question is does this
8 Board have in front of it information that says there was
9 established a long-term consistent pattern of use, which
10 we don't believe you do at this time. It may be -- there
11 again, it may be reached through analysis of data.

12
13 For a number of the other factors, while
14 each of them is listed in the report and there's a little
15 bit of information about them in the report, again, I
16 would think that the level of information and analysis on
17 the factors overall we would urge you to consider those
18 at greater length.

19
20 I guess this segues into my third point,
21 which is simply a very strong urging that you consider,
22 at least for this C&T determination, to wait until you do
23 have the written procedures that you are working on in
24 place before you do it. The Secretaries of Interior and
25 in cooperation with Agriculture have written you and
26 asked you to review your current practices regarding
27 these types of decisions and develop written policies
28 clarifying the Board's approach to these decisions. And
29 specifically for customary and traditional use
30 determinations the Board should review whether the
31 analytic thresholds and benchmarks for certain criteria
32 are needed and are appropriate for inclusion in the
33 decision process.

34
35 We understand that you have a number of
36 C&T determinations in front of you all across the state
37 and that you feel some of those are very clear cut,
38 there's no need to wait and we have no argument about
39 those from the State. But of this one above all, if
40 there's a -- you know, when there's an aching need to
41 actually do the analysis and get the data, this is one we
42 would strongly urge you wait, review that data and then
43 make your decision.

44
45 Again, I want to mention we are talking
46 about potentially doing uses that haven't existed since
47 before statehood, that we have ongoing subsistence uses
48 right now that no one is talking about curtailing, no
49 users would have detriment or be handicapped by failure
50 to act on this today. There's no adverse impact to

1 subsistence users if you take that necessary time.

2

3 Cook Inlet fish allocation issues are the
4 most contentious fish allocation issues in the entire
5 state and they're contentious all over the state, but
6 Cook Inlet by a large degree is the most contentious area
7 in the entire state. This is where if there's a need to
8 get it right, it's extraordinarily important, this is the
9 place.

10

11 Unfortunately we have a wide variety of
12 users, almost all of whom are used to trying to go right
13 up the political ladder to bring resolution and I found
14 generally that's a very bad way to resolve issues. I
15 understand that the Board might have considered the use
16 of a stakeholder panel to look at this. I think that's a
17 great idea. I would simply urge that you don't need to
18 act today on the C&T determination in order to start some
19 type of stakeholder program to bring you a resolution on
20 that.

21

22 I thank you again for your hospitality.
23 Again, this is in no way any -- this is not a plea to
24 restrict subsistence, it is not a plea to take any
25 subsistence away, but it's to just go slowly and have
26 real evidence in front of you before you do act on this
27 C&T determination. Thank you.

28

29 ACTING CHAIR GOTTLIEB: Thank you very
30 much. Do we have questions or comments for the
31 commissioner? John.

32

33 MR. LITTLEFIELD: Thank you, Madame
34 Chair. I think I'll save it until tomorrow during
35 discussion. I think I could probably comment on every
36 one of those, but I'll save just one question for the
37 commissioner. He made a statement, and maybe I'm wrong,
38 that he didn't consider this to be a restriction and I
39 think I find that -- I take issue with that, that it is a
40 restriction because right now all rural residents are
41 eligible for subsistence in that area. The C&T
42 designation is to make that eligible group of applicants
43 smaller. So I consider that a restriction. Maybe you'd
44 want to comment on what you meant by no restriction.

45

46 MR. CAMPBELL: Thank you very much.
47 Actually I appreciate that question because I think it
48 kind of goes to the heart of the matter. Right now under
49 the general rural determination with a lack of C&T
50 determination any rural residents can go and fish under

1 subsistence permits in these stretches under the existing
2 State regulations.

3

4 Right now we've heard testimony today
5 about no nets, we're not asking for nets, we're not
6 snagging, but at the same time this Board had presented
7 to it, concurrent with these proposals, a number of
8 proposals that were for nets. There was a proposal to
9 gillnet 50 rainbows, et cetera. There were other
10 proposals like that.

11

12 Once the C&T determination is in place, I
13 believe you have started down the legal road where it is
14 very hard not to then react favorably to subsequent
15 proposals that you will receive regarding nets, regarding
16 seasons, regarding bag limits, methods and means, all of
17 these things. And it is those issues that I think will
18 truly enflame this in a way that it doesn't need to be.

19

20 So what I am saying is without this C&T
21 determination the status quo will continue as it has
22 been, subsistence users can continue to participate,
23 residents of Ninilchik can go up and fish in Skilak Lake
24 on a subsistence permit, but I really think once you take
25 this step down the road it's going to be very hard at
26 that point to find an off-ramp.

27

28 ACTING CHAIR GOTTLIEB: John.

29

30 MR. LITTLEFIELD: Like I said, I want to
31 hold most of this for tomorrow and you're probably
32 thankfully so, but I did want to mention that ANILCA is
33 quite different than the State regulations. We talk
34 about a meaningful priority for rural residents to
35 practice their customary and traditional patterns. So
36 that is quite different from the State, which allows a
37 reasonable opportunity and lets everybody in the country
38 do it.

39

40 So there is a meaningful preference as
41 opposed to a reasonable opportunity. So if those people
42 who feel that their meaningful priority is not being met
43 come to this Board, we don't need to have a C&T to do
44 that. They can still say we need to address this
45 problem. So I don't think it puts off anything.

46

47 I think there are some proposals now,
48 they're not in my book, but apparently there are some
49 proposals that have been submitted that were referenced
50 in one of the sections. Nothing here prevents that from

1 happening. We're going to go down that slippery slope as
2 you say anyway. We have to follow what ANILCA says and
3 it's different than the State program.

4
5 I'll save the rest for tomorrow, Madame
6 Chair.

7
8 MR. CAMPBELL: I appreciate this.
9 Unfortunately, after 20-plus years of dealing with both
10 ANILCA and the State law and trying to find some
11 resolution, I'm pretty familiar with both. I do agree
12 that anyone can propose anything, that the Board will
13 have to consider it, but I do strongly feel that once you
14 make the C&T determinations you've started down a road
15 that makes it much harder to deal with those issues.

16
17 Again, at this time I'm not arguing
18 against making a C&T determination. I'm simply saying
19 you do not have the proper information in front of you to
20 make the decision, either yes or no.

21
22 ACTING CHAIR GOTTLIEB: Charlie.

23
24 MR. BUNCH: Yes. If I could address some
25 of the Commissioner's concerns. The Office of
26 Subsistence Management has had copies of Ninilchik's
27 reports for some time now, so those are available for
28 review through the Office of OSM if you wanted to. And
29 it's my understanding that Dr. Fall's 2002 report does
30 kind of shed some light on long-term consistent patterns
31 of use. Is it possible that Dr. Fall could be here
32 tomorrow? Aha, Dr. Fall. Can you shed some light on
33 that?

34
35 DR. FALL: Now or tomorrow?

36
37 MR. BUNCH: Well, if it's up to me, it
38 would be tomorrow, but the Chairman is the one that will
39 make that decision.

40
41 ACTING CHAIR GOTTLIEB: I just want to
42 make sure that the Department had the opportunity today
43 while the Commissioner is here to put all their comments
44 on the record, so I didn't know if there were additional
45 comments that Marianne or others wanted to make. Did you
46 have another statement? Go ahead, please.

47
48 MR. CAMPBELL: Madame Chair. I
49 appreciate it. No, I was going to say I think Dr. Fall
50 is prepared to speak precisely to that tomorrow and I

1 think he will expand on that issue. We would very much
2 like to get a copy of that report. I guess it previously
3 had not been available. That's my understanding from
4 Staff. Thank you.

5
6 ACTING CHAIR GOTTLIEB: Marianne.

7
8 MS. SEE: Just to further clarify the
9 point about the availability of information. There are
10 summaries, documents that have been available from the
11 Ninilchik report, but we have requested for some time and
12 not yet seen a full project description that includes the
13 survey methodology details and specific data results.
14 That's what's unavailable. That would allow some
15 additional scrutiny of specific questions of the data,
16 but that has not yet been possible and that's a point
17 that's different than the summary documents that I think
18 Charlie Bunch referred to.

19
20 ACTING CHAIR GOTTLIEB: Thank you. Are
21 there further comments you wanted to make specific to the
22 proposal, the Department's position, as we have on the
23 written record or as we've heard.

24
25 MS. SEE: Madame Chair. Just a few brief
26 points to further add to the Commissioner's comments if I
27 may.

28
29 ACTING CHAIR GOTTLIEB: Sure. Please.

30
31 MS. SEE: And then certainly we can start
32 in the morning with more detailed comments from Dr. Fall.
33 We wanted to note that the Cook Inlet study that was done
34 by the Department was specifically designed with a
35 variety of methods to gain historical as well as present
36 day information and it was also designed with the
37 expectation that the results would be evaluated for
38 further use in C&T analyses by the Federal Subsistence
39 Management Program. So the report was not intended to
40 actually go to that additional step of those analyses.
41 We noted this to Federal Staff that additional analyses
42 of the study data would be appropriate and necessary for
43 purposes of this proposal. However, this was not
44 requested from the Department nor performed by Federal
45 Staff.

46
47 The Department did independently prepare
48 a preliminary example in November, which was provided to
49 and discussed with the Federal Board in a work session,
50 identifying some of the survey results regarding historic

1 use of the Kasilof River drainage by Ninilchik survey
2 respondents.

3
4 A similar but more detailed assessment of
5 these same survey results but for the Kenai River as well
6 as a more detailed analysis of Kasilof usage should still
7 be developed and considered before any conclusions are
8 drawn. Such an analysis would provide critical data
9 regarding a community's patterns over time. For example,
10 you could query the estimated percentage of households in
11 Ninilchik from the survey that have participated in
12 fisheries and waters subject to Federal subsistence
13 management and in specific waters.

14
15 With respect to the other project that
16 has been discussed extensively from Ninilchik Tribe, as I
17 noted, that we still need to see a full description of
18 the methodology and the data results because that would
19 allow this additional, very specific kind of scrutiny
20 about what the information says and what the limits are,
21 what the appropriate way would be to do further analysis
22 of that information. Assumptions are always part of the
23 study and you need to know more about those methods
24 before you can scrutinize the information further.

25
26 So, as the Commissioner stated, we feel
27 all the relevant information needs to be fully evaluated
28 regarding the extent of use over a period of time. Also,
29 of course, we think that this should be carried out only
30 after the Federal program revisits and redefines the
31 standards for these factors and determination.

32
33 We also note that we disagree with both
34 recommendations of the Federal Interagency Staff
35 Committee. The Federal analysis we feel does not provide
36 either sufficient or substantial evidence from any of the
37 sources referenced to support any C&T findings. We note
38 that we maintain that findings of C&T use relating to
39 this proposal are premature and would be based on
40 information that requires further analysis before it
41 could reasonably be used in regulatory decisions. To
42 engage in rule-making now would necessitate using
43 incomplete information, it could easily result in
44 mistaken factual determinations, it would be arbitrary
45 and capricious.

46
47 So we do support, as the Commissioner
48 noted, that the determination be deferred until the
49 procedures for analyses of C&T use are developed and
50 adopted by the Federal Subsistence Board and until the

1 relevant data have been appropriately and fully analyzed.

2

3

4 There are points that came on the record
5 this afternoon that characterized our study incorrectly
6 and we will need to correct that on the record. That
7 could be done now or tomorrow morning. Thank you.

8

9 ACTING CHAIR GOTTLIEB: Thanks very much.
10 Any comments or questions on the Department's statement.
11 Ralph.

12

13 MR. LOHSE: Thank you, Chair. I guess
14 I'd just like to address a couple questions to Mr.
15 Campbell and a couple comments if I may. I, too, agree
16 with him that there's going to have to be a stakeholder
17 meeting to resolve this, but I think it will have to be a
18 stakeholder meeting like what we were talking about in
19 Cordova this winter, where we have a C&T and now we have
20 a use question and the stakeholders are going to have to
21 get together to decide how we're going to make use of the
22 resources there.

23

24 The Federal Board is not called on to have a
25 stakeholder meeting to find out if somebody has C&T.
26 They can have a stakeholder meeting to find out how to
27 implement the regulations that need to come from the C&T
28 and it's going to be up to this Board that's sitting
29 right there to decide whether or not there's been
30 sufficient evidence provided both to the Council and by
31 the members who have testified here to satisfy their
32 reasonable doubt that sufficient evidence has been
33 presented.

34

35 I did have one question and I guess I'm
36 going to have to go to a comment that some of my
37 Athabaskan friends that I've got from upcountry and they
38 talk about life being a trail. I think that we don't
39 have to go very far back in history and we find out,
40 especially in the subsistence community, life was a
41 trail. You didn't have any specific place that you spent
42 the night. If you happened to get a moose, that's where
43 you stayed until you ate up the moose when I talked to
44 some of the old folks.

45

46 But the question that you brought up was
47 that the first criteria has to be settled before you can
48 go on to all the other criterias. So does consistent,
49 long-term use mean putting up large quantities of
50 subsistence foods, storing it up for the future, for the

1 long term, or does consistent long-term use mean that
2 down through the ages and through the years when the
3 opportunity presented itself when you were in the area,
4 did you take food for subsistence.

5
6 I mean that's what the life is a trail
7 idea is. You may only have came around there once every
8 10 years. You may only have camped on this side of Mt.
9 Drum every 10th year and you might not have camped there
10 that night if the caribou weren't there because you
11 didn't run into the caribou until you got all the way
12 over to the Mud volcano. But did you have consistent,
13 long-term use down through the years of the resource if,
14 when the opportunity presented itself, you made use of
15 it.

16
17 Now we've been told, and this is just
18 what I've been told sitting on this Council in our
19 discussions, that subsistence is opportunistic. When the
20 opportunity presents itself, you make use of it. We're
21 told by some of our Athabaskan friends up there you don't
22 even tell somebody that you're going to go out and hunt
23 for a specific animal because that's ingee (ph). You
24 don't tell them you're going to hunt for a specific
25 animal because you feel like the animal gives itself to
26 you. So if you are there and this animal presents
27 itself, you take it, but you don't say that ahead of
28 time. That's not part of my culture. That's not part of
29 most of our culture here. But that is how some of the
30 subsistence users in our area look at it.

31
32 From that standpoint, you know, we've
33 talked about these people traveling back and forth on the
34 Kenai running traplines. I've done the same thing. When
35 you're running a trapline and you've got a dog team to
36 feed and you catch a lynx, you feed the dog team the lynx
37 and you eat a chunk of the lynx yourself. That's because
38 that's what you had. Otherwise you feed the dog team
39 oatmeal and you have a piece of the oatmeal and some
40 margarine yourself and you hope to find something
41 tomorrow.

42
43 I think that the people from Ninilchik
44 presented a use pattern that was consistent with
45 subsistence on the Kenai Peninsula. That's my own
46 personal belief and that's why I'm asking you what does
47 long-term consistent use mean.

48
49 MR. CAMPBELL: Madame Chair. This is the
50 same question that Gary asked Ms. Armstrong. One of the

1 things that came out fairly quickly is there's a lot of
2 dispute about it. One of the things the Secretary has
3 urged this Board is to consider establishing written
4 policies and standards about what that does mean and I
5 think that's a really good thing to do. What I'm also
6 urging the Board to do is to do that.

7
8 After a good bit of discussion around and
9 one of the things that I asked is where in these reports
10 does it show the long-term consistent use as opposed to
11 what's being used now and we couldn't find that and we
12 got to where it was in a painting. I guess that's fair,
13 but one of the schools of painting was the
14 Impressionists. Again, I keep going back to I'm a guy
15 who likes to have data to the extent possible.

16
17 I believe that there's probably nowhere
18 in Alaska you can find that any species that exists
19 hasn't been eaten at one time or another for subsistence.
20 But if that's the standard, I can save you guys a lot of
21 time. You don't need to do all this, you know. It's
22 just all customary and traditional use. The fact that
23 you're going through this implies that that is something
24 -- it must be narrower than the fact that, you know, I
25 don't think there's a thing in Alaska that somebody
26 hasn't eaten at some point when they were hungry enough
27 and in need and they happened to be there.

28
29 So, while I have my standard of what
30 long-term consistent pattern of use would be, what I
31 think is most as important that this Board have its
32 standard that it can apply consistently case by case and
33 that's why I'm simply suggesting you delay until you work
34 that out. Thank you.

35
36 ACTING CHAIR GOTTLIEB: John.

37
38 MR. LITTLEFIELD: Thank you, Madame
39 Chair. I can't help myself. I've got a C&T proposal
40 coming up Sunday.

41
42 (Laughter)

43
44 MR. LITTLEFIELD: Anyway, I did want to
45 comment again about the difference between the State
46 program and ours. We're talking about substantial
47 evidence here, what we use as opposed to the State and
48 opposed to beyond all reasonable doubt. We're talking
49 about substantial evidence.

50

1 The Commissioner said we need to follow
2 our regulations. Well, we are following our regulations
3 and I'm certainly not going to be one that says those
4 regulations shouldn't be looked at and reviewed, as well
5 as the rural determination and a whole bunch of other
6 things that were kind of made knee jerk 10, 15 years ago.
7 But we are following those regulations and the
8 regulations say we don't need to adopt all of those
9 criteria, not every one of them.

10
11 But specific to number one, which he
12 seems to imply is the best and has to be met, is it also
13 says in there that conditions that are outside of the
14 control of the people who are being affected. You have
15 court cases in the Marine Mammal Protection Act where
16 we're selling sea otter skins where the court clearly
17 said you killed off all the sea otters and then you made
18 it illegal to use them, that's why they didn't do it, but
19 that long-term generational use still existed, but it was
20 outside of the control of the people that were in the
21 area.

22
23 In this particular case, it goes on
24 forever. You can talk about contact. That's outside of
25 their control, the people in Kenai who lived in that
26 area. The contact was outside of their control. Disease
27 decimated them. Over-fishing. You know, the Federal
28 government had to stop everybody from fishing. The State
29 said, oh, since statehood we're not going to allow it.
30 You're going to find that a whole bunch. We went through
31 this on our bear. They said you couldn't hunt them
32 anymore, but we did it long before then.

33
34 So it's important to remember that if you
35 have these gaps where you cannot show long-term use
36 forever, it's because it's outside of their control. If
37 the State passes a regulation that said you couldn't do
38 something, the people that were talking about the horn
39 deal earlier that one of the members brought up, they
40 quit hunting, but that doesn't mean they don't have a
41 long-term use in there. So I want to make these points
42 before we go home for the night.

43
44 Thank you, Madame Chair.

45
46 ACTING CHAIR GOTTLIEB: Thank you. Any
47 other thoughts or comments.

48
49 (No comments)

50

1 ACTING CHAIR GOTTLIEB: I appreciate
2 everybody's patience. We will start up again tomorrow
3 morning at 8:00. Thank you.

4

5 (PROCEEDINGS TO BE CONTINUED)

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C E R T I F I C A T E

UNITED STATES OF AMERICA)
)ss.
STATE OF ALASKA)

I, Joseph P. Kolasinski, Notary Public in and for
the State of Alaska and reporter for Computer Matrix
Court Reporters, do hereby certify:

THAT the foregoing pages numbered 125 through 297
contain a full, true and correct Transcript of the
FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME II taken
electronically by Nathan Hile on the 10th day of January
2006, beginning at the hour of 8:00 o'clock a.m. at the
Sheraton Hotel in Anchorage, Alaska;

THAT the transcript is a true and correct
transcript requested to be transcribed and thereafter
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the best of our knowledge and ability;

THAT I am not an employee, attorney, or party
interested in any way in this action.

DATED at Anchorage, Alaska, this 22nd day of
January 2006.

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/2008